

June 16, 1986

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**Kirsti Toscani
and Loia Toscani**
Business Manager/Milano, Age: 35
and Daughter, Age: 8 months

I'm originally from Norway, but I met my husband in Paris when I was 25. I was a model and he was a photographer. Now I organize the mess of his work and our life. I love what I do because it's a gift to be busy, travel, and be in contact with the world. Getting input from people, whether good or bad is always good. I started working in a supermarket, piling tomato cans straight. I don't understand why people feel they have to go away for vacations, because home is the nicest place on earth.



Photo: Toscani



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GOINGS ON ABOUT TOWN

A CONSCIENTIOUS CALENDAR OF EVENTS OF INTEREST

THE THEATRE PLAYS AND MUSICALS

AUNT DAN & LEMON—A series of extended conversations about good and evil, interspersed with melodrama. The author is Wallace Shawn and the admirable direction is by Max Stafford-Clark. With Pamela Reed and Pippa Pearthree. (Reviewed in our issue of 11/4/85.) (Public, 425 Lafayette St. 598-7150. Tuesdays through Saturdays at 8. Matinees Saturdays and Sundays at 3.)

BENEFACTORS—Glenn Close, Sam Waterston, Mary Beth Hurt, and Simon Jones in a cleverly constructed and eloquently written play by Michael Frayn, the burden of which is that attempting to do good in the world is a perilous adventure. On Tuesday, June 17, Maureen Anderman and David Birney will replace Miss Close and Mr. Waterston. (1/6/86) (Brooks Atkinson, 256 W. 47th St. 719-4099. Tuesdays through Saturdays at 8. Matinees Wednesdays and Saturdays at 2, and Sundays at 3.)

THE BOYS IN AUTUMN—Tom Sawyer in adult life a child-molester and Huck Finn a wife-killer: this is what we learn from a repellent little theatre piece by Bernard Sabath, who boasts of having a lively imagination. The two characters in the play are enacted by George C. Scott and John Cullum. (5/12/86) (Circle in the Square, 50th St. west of Broadway. 239-6200. Tuesdays through Saturdays at 8. Matinees Wednesdays and Saturdays at 2, and Sundays at 3.)

THE CHOPIN PLAYOFFS—A comedy by Israel Horowitz, presented by the American Jewish Theatre. (92nd Street Y, Lexington Ave. at 92nd St. Tuesdays through Thursdays and Saturdays at 8, and Sundays at 7. Matinees Sundays at 2. For tickets, call 831-8603.)

CUBA AND HIS TEDDY BEAR—Robert De Niro is a Hispanic drug dealer (cocaine), who is bringing up his teen-age son. Reinaldo Povod's first play is considerably better than promising; Mr. De Niro's performance is remarkable, and he is well supported by Burt Young, Ralph Macchio, and Paul Calderon. Bill Hart directed. (6/2/86) (Public, 425 Lafayette St. 598-7150. Nightly at 8. Closes Saturday, June 14.)

ELECTRIC MAN—Phil Bruns in a comedy by Mark Eisenstein. (Actors Playhouse, 100 Seventh Ave. S. 691-6226. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7.)

ENSEMBLE STUDIO THEATRE—Final performances of a festival of one-act plays. "Dolores," by Edward Allan Baker; "Ma Rose," by Cassandra Medley; "Wash and Dry," by Shel Silverstein; and "Moonlight Kisses," by Stuart Spencer. Wednesday through Friday, June 11-13, at 7:30; Saturday, June 14, at 6 and 10; Sunday, June 15, at 3 and 7; and Monday, June 16, at 7:30. (549 W. 52nd St. 247-3405.)

THE FURTHER ADVENTURES OF KATHY AND MO—A play written by and starring Kathy Najimy and Mo Gaffney. Opens Wednesday, June 11. (Second Stage, Broadway at 76th St. 307-7171. Wednesday through Friday, June 11-13, at 8, and Saturday, June 14, at 7 and 10; thereafter, Tuesdays through Thursdays at 8; Fridays at 7 and 10; and Saturdays at 8 and 11.)

GOBLIN MARKET—This musical, based on Christina Rossetti's erotic allegorical poem, has a charming score by Polly Pen, imaginative scenery by William Barclay, and good performances—singing and acting—by Terry Klausner and Ann Morrison. It may prove a little too fanciful for every taste, though. (4/28/86) (Circle in the Square Downtown, 159 Bleecker St. 254-6330. Tuesdays through

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Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinees Sundays at 3.)

THE GOLDEN LAND—An extremely sentimental musical about Jewish immigrants to the United States. The company of three men and three women includes an excellent singer named Marc Krause. (12/2/85) (Second Avenue Theatre, 189 Second Ave. at 12th St. 674-1460. Wednesdays through Saturdays at 8. Matinees Wednesdays and Saturdays at 2:30, and Sundays at 1 and 5.)

THE HOUSE OF BLUE LEAVES—A superb revival of John Guare's brilliant, ferocious comedy with Swoosie Kurtz, John Mahoney, and Stockard Channing, among other fine performers. Jerry Zaks was the acute, perceptive director. (3/31/86) (Vivian Beaumont, Lincoln Center. 239-6200. Tuesdays through Saturdays at 8. Matinees Wednesdays, Saturdays, and Sundays at 2.)

I'M NOT RAPPAFORT—Herb Gardner's synthetic, though often entertaining, comedy about two old men who share a bench in Central Park is given an expert performance by Cleavon Lit-

tle and Judd Hirsch. (6/17/85) (Booth, 222 W. 45th St. 239-6200. Tuesdays through Saturdays at 8. Matinees Wednesdays and Saturdays at 2, and Sundays at 3.)

LIGHT OPERA OF MANHATTAN—Presenting Victor Herbert's *SWEETHEARTS*. (Cherry Lane, 38 Commerce St. 989-2020. Wednesdays through Saturdays at 8. Matinees Wednesdays at 2 and Saturdays and Sundays at 3:30.)

LONG DAY'S JOURNEY INTO NIGHT—Directed by Jonathan Miller and with an excellent cast headed by Jack Lemmon, the O'Neill masterpiece is brought intensely to life in this vivacious production, which accurately places Mary Tyrone, not James Tyrone, at the center of the play. (5/12/86) (Broadhurst, 235 W. 44th St. 239-6200. Tuesdays through Saturdays at 8. Matinees Sundays at 3.)

LOOT—Joe Orton's fierce and highly polished farce about all sorts of criminal activity in England in a too mild revival, but with considerable merriment, all the same. With Joseph Maher, Zeljko Ivanek, and Zoë Wanamaker, among other good actors. John Tilling directed. (3/3/86) (Music Box, 239 W. 45th St. 239-6200. Nightly, except Sundays at 8. Matinees Wednesdays and Saturdays at 2.)

MAGGIE MAGALITA—A play by Wendy Kesselman, presented by the Lambs Theatre Company. (Little Theatre at the Lambs, 130 W. 44th St. 997-1780. Wednesday at 2; Thurs-

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GOINGS ON ABOUT TOWN

day at 11 and 8; Friday at 8; and Saturday at 2 and 8. Closes Saturday, June 14.)

MASTER CLASS—There are four excellent performances—by Austin Pendleton, Werner Klemperer, Len Cariou, and Philip Bosco—in David Pownall's so-so play about a confrontation, in 1948, between Prokofiev and Shostakovich and Stalin and Zhdanov. (Reviewed in this issue.) (Roundabout, 100 E. 17th St. 420-1883. Tuesdays through Saturdays at 8. Matinées Wednesdays, Saturdays, and Sundays at 2.)

MUMMENSCHANZ—A return engagement by the mime-and-mask trio. Opens Tuesday, June 17. (Helen Hayes, 240 W. 44th St. 944-9450. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

THE MYSTERY OF EDWIN DROOD—Old-fashioned mock-Victorian nonsense, with book and songs by Rupert Holmes and direction by Wilford Leach. The cast includes George Rose, Betty Buckley, and Loretta Swit, to say nothing of the audience itself, which is put to work in the second act. (12/16/85) (Imperial, 249 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

NATIONAL LAMPOON'S CLASS OF '86—A revue created by Matty Simmons and other members of the magazine's editorial staff. (Village Gate, 160 Bleecker St. 475-5120. Tuesdays through Thursdays at 8, and Fridays and Saturdays at 7:30 and 10:30. Matinées Sundays at 5.)

NEGRO ENSEMBLE COMPANY—Gus Edwards' LOUIE AND OPHELIA, about the affair of a middle-aged Bronx couple—a mismatch from the start—is as humorous as it is disturbing. Love conquers all. In the leading roles, Elain Graham and Douglas Turner Ward could not be better. Mr. Ward directed. (5/26/86) (Theatre Four, 424 W. 55th St. 246-8545. Tuesdays through Fridays at 8; Saturdays at 8:30; and Sundays at 7. Matinées Saturdays at 3 and Sundays at 2:30.)

THE NICE AND THE NASTY—An extremely trying romp by Mark O'Donnell. (Playwrights Horizons, 416 W. 42nd St. 279-4200. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

NUNSENSE—A musical by Dan Goggin. (Sheridan Square Playhouse, 99 Seventh Ave. S. 924-7100. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

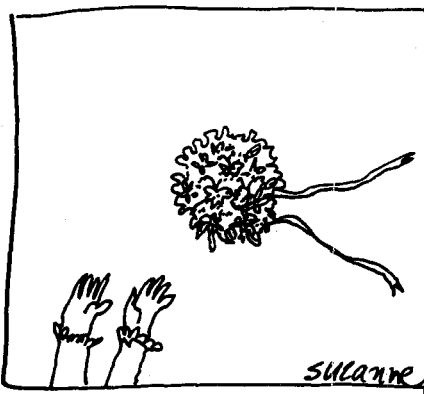
OLYMPUS ON MY MIND—A musical with a score by Grant Sturiale and book, lyrics, and direction by Barry Harman. (Actors' Outlet, 120 W. 28th St. Wednesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3. For tickets, call 645-0783.)

THE PERFECT PARTY—A. R. Gurney, Jr.'s deliberately mannered comedy about a professor who is obsessed with perfection is often disappointing, but just as often Mr. Gurney's wit and high spirits break through the Wildean mold to redeem it. The acting by John Cunningham, Debra Mooney, and Charlotte Moore is very good. John Tillinger directed. (4/14/86) (Playwrights Horizons, 416 W. 42nd St. 279-4200. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

PERSONALS—A jaunty and romantic little revue about people looking for companionship of one sort or another in the classified ads. Talent abounds. Witty book and lyrics and tuneful score; performances by six gifted young actors. (Minetta Lane, 18-22 Minetta Lane, east of Sixth Ave., between W. 3rd and Bleecker Sts. 420-8000. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

THE PETITION—Jessica Tandy and Hume Cronyn give excellent performances in an unsatisfactory two-character play by Brian Clark, about an old couple bickering in the shadow of death. (5/5/86) (Golden, 252 W. 45th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

PROFESSIONALLY SPEAKING—A cocky little revue that is sometimes entertaining, sometimes not. The subject of the jokes (some good, some



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not) is the rapacity or ineptitude or hypocrisy of doctors and lawyers and even teachers. Music and lyrics by Peter Winkler, Ernst Muller, and Frederic Block. Tony Tanner was the director. (6/2/86) (Theatre at St. Peter's Church, Lexington Ave. at 54th St. 832-2555. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

THE SEARCH FOR SIGNS OF INTELLIGENT LIFE IN THE UNIVERSE—A show that has nothing whatever to do with its title, which is just as well. It does have Lily Tomlin clowning her merry way through a number of skits by Jane Wagner, many of them very funny. (10/7/85) (Plymouth, 236 W. 45th St. 239-6200. Tuesdays through Thursdays at 8; Fridays at 7; and Saturdays at 8. Matinées Wednesdays and Saturdays at 2. Special performance Monday, June 16, at 8.)

SILLS & COMPANY—Improvisational theatre games, presented by Paul Sils, Paul Dooley, Severn Darden, and others. (Lambs, 130 W. 44th St. 997-1780. Tuesdays through Fridays at 8, and Saturdays at 7 and 10. Matinées Wednesdays at 2 and Sundays at 3.)

SOCIAL SECURITY—A lively, conventional comedy by Andrew Bergman, well acted by Marlo Thomas, Ron Silver, Joanna Gleason, Stefan Schnabel, Olympia Dukakis, and Kenneth Welsh. (4/28/86) (Ethel Barrymore, 243 W. 47th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

SONG & DANCE—The only two reasons for going to see this curious mishmash of a show are Bernadette Peters and Christopher d'Amboise, and perhaps those two reasons are enough. (9/30/85) (Royale, 242 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

SWEET CHARITY—A hit twenty years ago and deservedly a hit today. Bob Fosse has been its chief maker, assisted by Neil Simon (book), Cy Coleman and Dorothy Fields (songs), and Robert Randolph (scenery). The star is a dazzling little singer-dancer-gamine named Debbie Allen. (5/12/86) (Minskoff, 45th St. west of Broadway. 869-0550. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

TEN BY TENNESSEE—Two rotating bills of one-act plays by Tennessee Williams, presented by the Acting Company—"The Lady of Larkspur Lotion," "Talk to Me Like the Rain," "Portrait of a Madonna," "The Unsatisfactory Supper," and "The Long Goodbye." Wednesday, June 11, and Friday, June 13, at 8; Saturday, June 14, at 2; Sunday, June 15, at 7; Tuesday, June 17, and Thursday, June 19, at 8; and Saturday, June 21, at 7. (6/2/86) "Auto-da-Fé," "The Strangest Kind of Romance," "A Perfect Analysis Given by a Parrot," "This Property Is Condemned," and "I Can't Imagine Tomorrow." Thursday, June 12, and Saturday, June 14,

at 8; Sunday, June 15, at 3; Wednesday, June 18, and Friday, June 20, at 8; and Saturday, June 21, at 10. (Lucille Lortel, 121 Christopher St. 924-8782.)

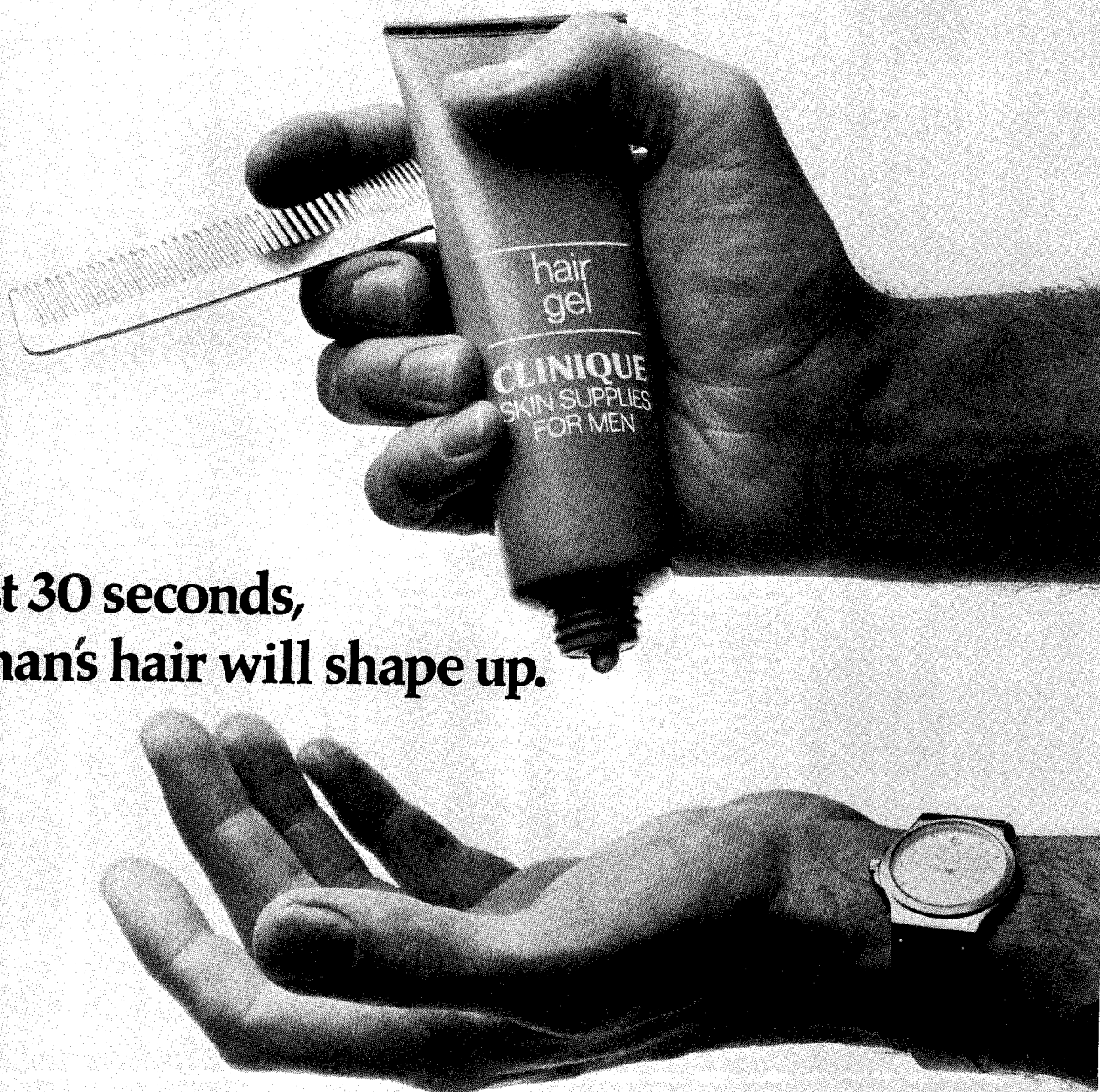
TRINITY SITE—A play by Janeice Scarbrough. Preview Wednesday, June 11. Opens officially on Thursday, June 12, and will run through Sunday, June 29. (WPA Theatre, 519 W. 23rd St. 206-0523. Tuesdays through Saturdays at 8, and Sundays at 7:30. Matinées Sundays at 3.)

VIENNA: LUSTHAUS—This evocation in dance, mime, acting, and music of turbulent Vienna before the First World War is often beautiful and always entertaining. It was created and directed by the imaginative Martha Clarke, with music by Richard Peaslee—the pair responsible for "The Garden of Earthly Delights" a couple of years ago. Witty text by Charles Mee, Jr. (5/5/86) (Public, 425 Lafayette St. 598-7150. Wednesdays at 7:30 and 9:30; Thursdays at 7:30; and Fridays and Saturdays at 7:30 and 9:30. Matinées Sundays at 3.)

WOMEN OF MANHATTAN—The performances of J. Smith-Cameron, Nancy Mette, and Jayne Haynes (the women) are fine, as are those of Keith Szarabajka and Tom Wright (a couple of their men), under Ron Lagomarsino's lively direction and in Adrienne Lobel's clever setting. But the play, by John Patrick Shanley, is a very frail vessel indeed. (Manhattan Theatre Club at City Center, 131 W. 55th St. 246-8989. Nightly at 8. Matinées Saturday and Sunday at 2:30. Closes Sunday, June 15.)

WRITER'S CRAMP—A comedy by John Byrne. (Hudson Guild Theatre, 441 W. 26th St. 760-9810. Wednesdays through Saturdays at 8, and Sundays at 7. Matinées Saturdays and Sundays at 3.)

LONG RUNS—BIG RIVER: A musical version of "The Adventures of Huckleberry Finn." Twain's great novel has been respectfully dealt with in a book by William Hauptman, with music and lyrics by Roger Miller. Heidi Landesman has somehow managed to put the Mississippi River onstage. (Eugene O'Neill, 230 W. 49th St. 246-0220. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) ... **BILOXI BLUES**: A comedy that verges on auto-hagiography, the hero being the author, Neil Simon, as a young Army draftee who, in 1943, is struggling to assume the mantle of writer. (Neil Simon, 250 W. 52nd St. 757-8646. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) ... **LA CAGUE AUX FOLLES**: A dazzling production of a musical that has little wit and a lot of phony sentimentality about the tender-hearted family life of homosexuals. The music, by Jerry Herman, is Broadway-romantic. (Palace, Broadway at 47th St. 757-2626. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) ... **CATS**: Ezra Pound nicknamed T. S. Eliot "Old Possum," and under that name Eliot wrote a collection of poems about cats, and now the cats are on display on Broadway, with music by Andrew Lloyd Webber, scenery by John Napier, and direction by Trevor Nunn. (Winter Garden, Broadway at 50th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) ... **A CHORUS LINE**: A group of young dancers audition for a handful of chorus jobs in a show not yet in rehearsal, and by the time the evening is over we know everything about all of them. (Shubert, 225 W. 44th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) ... **THE FANTASTICKS**: 10,872 performances so far. (Sullivan Street Playhouse, 181 Sullivan St., at Bleecker St. 674-3838. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3.) ... **42ND STREET**: Once upon a time there was a silly-wonderful Warner Brothers musical about a young hoover who goes on in place of a disabled star and herself becomes a star overnight. The legitimate musical that has been fashioned from the movie musical is just as silly but by no means as wonderful. (Majestic, 245 W. 44th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) ... **LITTLE SHOP OF HORRORS**: Based on Roger Corman's 1960 horror quick-



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ie about a man-eating plant, this exuberant, jokey musical is wholly free of camp. The score is by Alan Menken, and Howard Ashman directed and wrote the book and lyrics. Martin P. Robinson designed the menacing plant. (Orpheum, 126 Second Ave., at 8th St. 239-6200. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinéés Sundays at 3.) ... **OH! CALCUITAL:** A collection of short sketches that purport to give us a refreshing view of sex and do not. (Edison, 240 W. 47th St. 302-2302. Mondays through Fridays at 8; Saturdays at 7 and 9:30; and Sundays at 7. Matinéés Sundays at 3.) ... **PENN & TELLER:** A sublime combination of conjuring and comedy. Penn Jillette does the talking; Teller is silent. (Westside Arts, 407 W. 43rd St. 541-8394. Thursdays and Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinéés Saturdays and Sundays at 3.)

MISCELLANY

ROY BLOUNT, JR.—Fifty very funny minutes by this humorist, appearing in the Lunchtime Humorists Series at the American Place. (111 W. 46th St. 247-0393. Wednesday, June 11, at noon, and Thursday, June 12, at 1.)

SPALDING GRAY—A monologist, presenting a final program: **SWIMMING TO CAMBODIA**. (Mitzi E. Newhouse, Lincoln Center. 239-6200. Tuesdays through Saturdays at 8, and Sundays at 7:30. Matinéés Saturdays at 2. Closes Sunday, June 22.)

FORBIDDEN BROADWAY 1986—A musical satire of Shubert Alley denizens. The lyrics to the song parodies are by Gerard Alessandrini. (Pals-son's Upstairs, 158 W. 72nd St. 595-7400. Tuesdays through Thursdays at 8:30; Fridays and Saturdays at 8:30 and 11:30; and Sundays at 8:30.)

DANCE

NEW YORK CITY BALLET—Wednesday evening, June 11: "Songs of the Auvergne," "Episodes," and "Gershwin Concerto." ... **Thursday evening, June 12:** "Piccolo Balletto," "Dances at a Gathering," and "Scotch Symphony." ... **Friday evening, June 13:** "Swan Lake," "Histoire du Soldat Suite," and "Serenade." ... **Saturday matinée, June 14:** "Mozartiana," "Piccolo Balletto," and "Serenade." ... **Saturday evening, June 14:** "Histoire du Soldat Suite," "Davidsbündlertänze," and "Gershwin Concerto." ... **Sunday matinée, June 15:** "Scotch Symphony," "Histoire du Soldat Suite," and "Symphony in C." ... **Sunday evening, June 15:** "Swan Lake," "Songs of the Auvergne," and "Dances at a Gathering." ... **Tuesday evening, June 17:** "Slaughter on Tenth Avenue," "Piccolo Balletto," and "Dances at a Gathering." ... **Wednesday evening, June 18:** "Mozartiana," "Episodes," and "Serenade." ... **Thursday evening, June 19:** "Swan Lake," "Songs of the Auvergne," and "Gershwin Concerto." ... **Friday evening, June 20:** "Histoire du Soldat Suite," "Davidsbündlertänze," and "Serenade." ... **Saturday matinée, June 21:** "Histoire du Soldat Suite," "Gershwin Concerto," and "Slaughter on Tenth Avenue." ... **Saturday evening, June 21:** "Mozartiana," "Histoire du Soldat Suite," and "Dances at a Gathering." (New York State Theatre. 870-5570. Tuesdays through Saturdays at 8, and Sundays at 7. Matinéés Saturdays at 2 and Sundays at 1. Through Sunday, June 22.)

AMERICAN BALLET THEATRE—Wednesday matinée and evening, June 11; Thursday and Friday evenings, June 19-20; and Saturday matinée and evening, June 21: "La Bayadère." ... **Thursday evening, June 12:** "Donizetti Variations," "Pas de Deux," "Sphinx," and "Requiem." ... **Friday evening, June 13:** "Donizetti Variations," "Murder," and "Requiem." ... **Saturday matinée, June 14:** "Symphonie Concertante," "The Leaves Are Fading," and "Requiem." ... **Saturday evening, June 14:** "Donizetti Variations," "Pas de Deux," "Sphinx," and "La Sonnambula." ... **Monday evening, June 16:** "Theme and Variations," "Dark Elegies," and "La Sonnambula." ... **Tuesday evening, June 17:** "Theme and Variations," "Murder," "Pas de Deux," and "Push Comes to Shove." ... **Wednesday matinée, June 18:** "La Sonnambula," "Dark Elegies," and

"Symphonie Concertante." ... **Wednesday evening, June 18:** "La Sonnambula," "The Mollino Room," and "Requiem." (Metropolitan Opera House. 362-6000. Evenings at 8. Matinéés at 2. Through Saturday, July 5.)

MARTHA GRAHAM DANCE COMPANY—Final performances of the engagement—Wednesday evening, June 11: "Song," "Cave of the Heart," five solo works, and "Part Real—Part Dream." ... **Thursday evening, June 12:** "Seraphic Dialogue," "Every Soul Is a Circus," "El Penitente," and "Tangled Night." ... **Friday evening, June 13:** "Every Soul Is a Circus," "Cave of the Heart," and "Appalachian Spring." ... **Saturday matinée, June 14:** "Every Soul Is a Circus," "Part Real—Part Dream," and "Acts of Light." ... **Saturday evening, June 14:** "Appalachian Spring," "Tangled Night," and "The Rite of Spring." ... **Sunday matinée, June 15:** "Plain of Prayer," "Temptations of the Moon," and "The Rite of Spring." (City Center, 131 W. 55th St. 246-8989. Evenings at 8. Matinéés Saturday at 2 and Sunday at 3.)

DOUGLAS DUNN AND DANCERS—In "Dances for Men, Women, and Moving Door," a new full-length work. (Marymount Manhattan Theatre, 221 E. 71st St. Wednesday, June 11, at 7:30; Thursday through Saturday, June 12-14, at 8; and Sunday, June 15, at 3. For information about tickets, call 924-0077.)

PHYLLIS LAMHUT DANCE COMPANY—Presenting a new full-length work, "Die Bewegung." (Playhouse 46, 423 W. 46th St. Thursday through Saturday, June 12-14, and Tuesday through Saturday, June 17-21, at 8:30. For information about tickets, call 924-0077.)

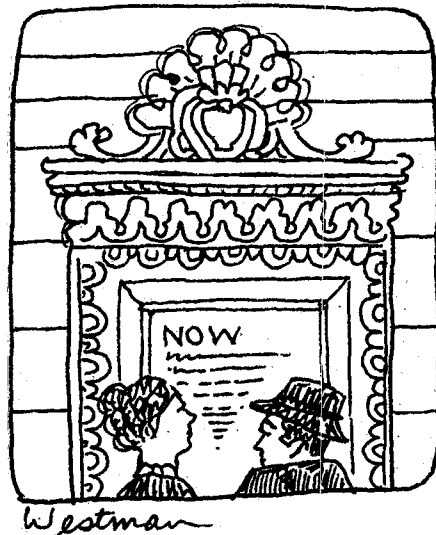
ALOK DANCE COMPANY—Presenting "Seinen," a new full-length work. (Norman Thomas Theatre, 111 E. 33rd St. Friday, June 20, at 8, and Saturday and Sunday, June 21-22, at 3 and 8. For information about tickets, call 947-4823.)

NIGHT LIFE

(A highly arbitrary listing in which bold-face type is used to pick out a few of the more notable performers in town. ... Musicians and night-club proprietors live complicated lives that are subject to last-minute change; it is therefore always advisable to call ahead.)

ALCONQUIN HOTEL, 59 W. 44th St. (840-6800)—**JULIE WILSON**, a compelling, convincing, and generally wonderful singer, is in the Oak Room Tuesdays through Saturdays at nine-fifteen and eleven-fifteen. Dining.

ANGRY SQUIRE, 216 Seventh Ave., at 23rd St.



(242-9066)—A long, narrow, nautical bar, restaurant, and jazz haunt. The weekend music honors go to guitarists **BUCKY** and **JOHN PIZZARELLI** on Friday and Saturday, June 13-14. Other groups can be heard the rest of the time. Sets begin Sundays through Thursdays at nine, and Fridays and Saturdays at ten.

BALLROOM, 253 W. 28th St. (244-3005)—**PEGGY LEE**, in subdued, intimate quarters, is here Tuesdays and Wednesdays at nine, and Thursdays through Saturdays at nine and eleven.

BLUE NOTE, 131 W. 3rd St., near Sixth Ave. (475-8592)—A dark, large, carpeted club with deep-blue tablecloths and a curvy bar. Alto saxophonist and blues singer **EDDIE (CLEANHEAD) VINSON**, blues singer **JIMMY WITHERSPOON**, and Roomful of Blues will all be present through Sunday, June 15; Monday, June 16, will belong to the Jim D'Angelis-Tony Signa Stars; and starting Tuesday, June 17, the Paris Reunion Band, featuring **JOE HENDERSON**, **SLIDE HAMPTON**, **WOODY SHAW**, and others, will alternate with drummer **ROY HAYNES'** quartet. Music after nine. Tuesdays through Sundays after the last set until four in the morning, Jazz Messenger Jean Toussaint presides over a jam session. Dining.

BOTTOM LINE, 15 W. 4th St., at Mercer St. (228-6300)—Folk, rock, jazz, comedy, tables, chairs, and fries. The lineup: Wednesday, June 11, at eight only, the Nylons; Thursday, June 12, **JOHN HARTFORD** and **Hot Rize**; Friday and Saturday, June 13-14, **Steve Morse**; Monday and Tuesday, June 16-17, **Larry Carlton**; Wednesday, June 18, **Nicolette Larson**; Thursday and Friday, June 19-20, the Straws; and Saturday and Sunday, June 21-22, **TOWER OF POWER**. Shows Sundays through Thursdays at eight and eleven, and Fridays and Saturdays at eight-thirty and eleven-thirty. Dining.

BRADLEY'S, 70 University Pl., at 11th St. (228-6440)—A real New York bar; it has dark wood panelling, Type A conversationalists, and some very good musicians. Pianist **WALTER BISHOP, JR.**, works with bassist **CLINT HOUSTON** through Saturday, June 14, and pianist **Kenny Werner** and bassist **RUFUS REID** will come in on Sunday, June 15. Music from nine-fifty-five. Dining.

CARLOS I, 432 Sixth Ave., at 10th St. (982-3260)—Gosh. It's so nice in here—long tables with pink tablecloths and pink napkins—you might mistake it for a jazz club on a movie set but for the real musicians onstage. **ERNESTINE ANDERSON** sings here through Sunday, June 15, and pianist **CECIL TAYLOR'S** sextet will arrive on Tuesday, June 17. Music nightly, except Mondays, at nine and eleven, with an additional show Fridays and Saturdays at twelve-thirty. Dining.

CARLYLE HOTEL, Madison Ave. at 76th St. (744-1600)—The Café Carlyle is a cozy, elegant room where **BOBBY SHORT** performs his cozy, elegant repertoire Tuesdays through Saturdays at ten and midnight. Dining. ... **Over in the Bemelmans Bar**, pianist **BARBARA CARROLL** is singing and soloing Tuesdays through Saturdays from ten.

CBGB & OMFUG, 315 Bowery, at Bleecker St. (982-4052)—Exposed rafters, weathered, splintery wood posts, decrepit neon beer signs, and a general ramshackle feel. All this and rock and roll, too. Monday is showcase night. Shows nightly from long after nine-thirty.

FAT TUESDAY'S, 190 Third Ave., at 17th St. (533-7902)—A velvet-and-mirror-walled below-stairs music room. Norwegian saxophonist **JAN GARBAREK'S** group, featuring bassist **EBERHARD WEBER**, plays through Sunday, June 15; on Tuesday, June 17, the master, **DIZZY GILLESPIE**, and his quintet will begin a two-week visit. Sets begin at nine. Dining.

FREDDY'S, 308 E. 49th St. (888-1633)—**CAROL SLOANE** sings while under the influence of Ella, with support from pianist **JOHN BUNCH** and bassist **PHIL FLANIGAN**. Shows Tuesdays through Thursdays at nine, and Fridays and Saturdays at nine and eleven. Dining.

GREGORY'S, 1149 First Ave., at 63rd St. (371-2220)—**Alicia Sherman** sings with Peter Madsen and Phil Bowler Wednesdays through Saturdays; Sundays and Mondays **Joe Derise** sings and plays piano with accompaniment from bassist **John Dooley**; and Tuesdays are reserved for guitarist **CHUCK WAYNE**, vibra-

harpist **WARREN CHIASSON**, and bassist **MICHAEL FLEMING**. All these groups begin about ten.

HANRATTY'S, 1754 Second Ave., at 91st St. (289-3200)—A spiffy back-room haunt for traditional-jazz pianists and their admirers. **DICK WELLSTOOD**, the exemplary stride-piano specialist, plays through Saturday, June 14. Sundays belong to Amy Duncan, and Mondays to **DICK HYMAN**. Music Sundays through Thursdays from eight-thirty, and Fridays and Saturdays from nine. Dining.

KNICKERBOCKER SALOON, 33 University Pl., at 9th St. (228-8490)—A pleasant, low-key bar and restaurant in the piano-bass district. Pianist **LOU LEVY** and bassist **MICHAEL MOORE** work in tandem through Saturday, June 14, and on Tuesday, June 17, **JUNIOR MANCIE** and **MARTY RIVERA** will take charge. Music at about nine-thirty Tuesdays through Saturdays. Dining.

LONE STAR CAFÉ, 61 Fifth Ave., at 13th St. (242-1664)—You can tell you're in New York and not in Texas: when they serve you a hamburger, they bring a jar of Dijon mustard along with it. Wednesday, June 11, Foghat and the Clintons; Thursday, June 12, Peter Gordon & the Love of Life Orchestra; Friday and Saturday, June 13-14, **ROBERT GORDON**; Sunday, June 15, Hilly Michaels; Wednesday and Thursday, June 18-19, **BUDDY GUY**, and **JUNIOR WELLS**; and Friday and Saturday, June 20-21, **COMMANDER CODY** and Tommy Joe White. Music after nine. Dining.

MICHAEL'S PUB, 211 E. 55th St. (758-2272)—**EDDIE CONDON'S GANG**, featuring Condon alumni, is the current program. Shows Tuesdays through Saturdays at nine and eleven. On Monday nights from nine-thirty to midnight, Woody Allen is likely to show up to play celebrity clarinet with a New Orleans-style sextet. Dining. Closed Sundays.

MIKELL'S, 760 Columbus Ave., at 97th St. (864-8832)—A longtime music hangout on the upper West Side. The schedule: Wednesday, June 11, the Victor Lesser band; Thursday, June 12, Julie Marshall; Friday and Saturday, June 13-14, **NOEL POINTER**; Tuesday, June 17, Mike Dolan; Wednesday, June 18, Marc Wagnon; Thursday, June 19, Rock Wilk; and Friday and Saturday, June 20-21, **CISSY HOUSTON**. Music from about ten. Dining.

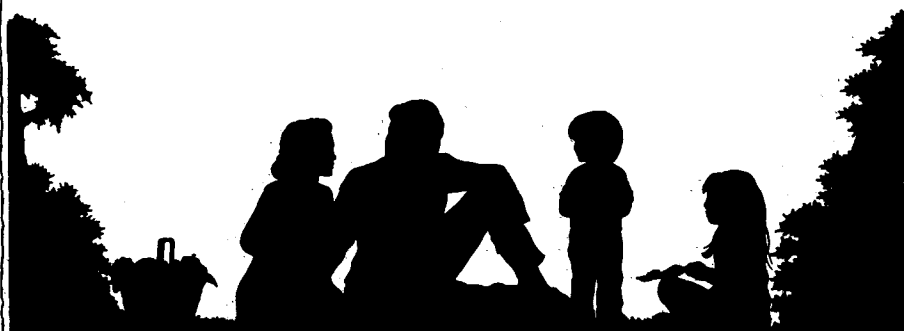
RITZ, 119 E. 11th St. (254-2800)—The mostly rock-and-roll roster: Thursday, June 12, reggae-ist **BLACK UHURU**, backed by legendary drummer **SLY DUNBAR** and bassist **ROBBIE SHAKESPEARE**; Friday, June 13, the Models; and Friday, June 20, the Replacements. Shows begin after nine Mondays through Thursdays, and after eleven Fridays and Saturdays. Dancing.

SOUNDS OF BRAZIL, 204 Varick St., at W. Houston St. (243-4940)—On its busy weekends, this club feels like the rush hour in Rio, and the music is the kind you won't find on "Solid Gold." Wednesday and Thursday, June 11-12, **ASTRUD GILBERTO**; Friday and Saturday, June 13-14, **LOREMIL MACHADO**; Tuesday, June 17, Frank Ferrucci and the Latin Jazz All-Stars; Wednesday, June 18, the Itals; Thursday, June 19, **EDDIE PALMIERI**; and Friday and Saturday, June 20-21, **PÉ-DE-BOI**. Music from ten. Dining. Closed Sundays and Mondays.

SWEET BASIL, 88 Seventh Ave. S., at Bleecker St. (242-1785)—Knotty-pine walls and adventurous music: Bassist **CHARLIE HADEN**, drummer **PAUL MOTIAN**, tenor saxophonist **DEWEY REDMAN**, and trumpeter **BAIKIDA CARROLL** are performing through Sunday, June 15; on Tuesday, June 17, altoist **PHIL WOODS** will bring in a quintet. On Monday nights, pianist, composer, and sage **GIL EVANS** gathers around him his **ORCHESTRA**, which is made up of youthful, enthusiastic veterans and high-energy newcomers. Shows from about ten. Dining.

TRAMPS, 125 E. 15th St. (777-5077)—A simple basic blues and rock club. Thursday, June 12, and Monday, June 16, **JUMP STREET**; Friday and Saturday, June 13-14, **OTIS RUSH**; Tuesday, June 17, Tall Lonesome Pines; and Saturday, June 21, Kristi Rose & the Dying Breed. Music after nine-thirty.

VILLAGE GATE, 160 Bleecker St. (475-5120)—Salsa in the downstairs room at nine on Mondays: on June 16, **LARRY HARLOW & ORQUESTA HARLOW**, **ORQUESTA BROADWAY**, and violinist **NOEL POINTER**, the guest jazz soloist, will all be on hand. . . . On the Terrace after nine-thirty, you'll find pianist **LARRY WILLIS** and bassist **SANTI DEBRIANO** through Sunday, June 15; pianist **ELLIS LARKINS** and bassist **BILLY POPP** will take over on Tuesday, June 17. Music nightly, ex-



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GOINGS ON ABOUT TOWN

cept Mondays. Jazz harpist **DAPHNE HELLMAN** drops by on Tuesdays, too.

VILLAGE VANGUARD, 178 Seventh Ave. S., at 11th St. (255-4037)—Perhaps the most famous basement in the world, now fifty-one years old, has been described by Max Gordon, the wise proprietor and resident father figure, as "a good joint that people like to come to—thank God." Through Sunday, June 15, guitarist **JOHN ABERCROMBIE** directs a quartet that includes tenor saxophonist **MICHAEL BRECKER**; on Tuesday, June 17, pianist **TOMMY FLANAGAN**, bassist **GEORGE MRAZ**, and drummer **AL FOSTER** will commence a six-night stand. Monday nights are **Blast-Off Nights** for the **MEL LEWIS BIG BAND**. Music from ten.

WEST END, 2911 Broadway, at 113th St. (666-8750)—Past the steam tables of piping-hot student food, beyond the pinball machines is a room full of jazz, blues, and comedy. Bill Spilka heads the **Paris Hot Strings** through Sunday, June 15, and on Wednesday, June 18, pianist **BILL MAY'S** trio will begin a stint. Music from about nine.

ZINNO, 126 W. 13th St. (924-5182)—A SoHo-sleek and spacious bar and restaurant with a musical passageway between them. Pianist **JANE JARVIS** and bassist **MILT HINTON** can be found in it weeknights from eight. Sundays after seven are given over to guitarist **GENE BERTONCINI** and bassist **MICHAEL MOORE**.

JAZZ / FOLK / ROCK CONCERTS, PERSONAL APPEARANCES, ETC.

NINTH ANNUAL NEW YORK WOMEN'S JAZZ FESTIVAL—Wednesday, June 11, at 8:30, the Mary Jane Williams quintet, and at 10, Fostina Dixon & Winds of Change. . . . Thursday, June 12, at 8:30, the Sumi Tonooka trio, and at 10, the Barbara Borden quintet. . . . Friday, June 13, at 9, the Ellen Seeling-Jean Fineberg Deuce, and at 10:30, Carmen Lundy. . . . Saturday, June 14, at 9:30 and 11: Abbey Lincoln. (Jazz Center of New York, 380 Lafayette St. 505-5660.)

ROBERTO CARLOS—Radio City Music Hall, Sixth Ave. at 50th St. 757-3100. Friday, June 13, at 8.

BARRY HARRIS JAZZ ENSEMBLE—Coleridge-Taylor Perkinson conducting, with the Young Adults Jazz Chorus. (Symphony Space, Broadway at 95th St. 864-5400. Friday, June 13, at 8.)

ENGLEBERT HUMPERDINCK—Radio City Music Hall. Saturday and Sunday, June 14-15, at 8.

VINTAGE JAZZ AT THE VINEYARD—Harlem Blues and Jazz Band, with Eddie Durham and Johnny Williams. (Vineyard Theatre, 309 E. 26th St. 683-0696. Sunday, June 15, at 8.)

JULIAN LENNON—Radio City Music Hall. Monday through Wednesday, June 16-18, at 8.

DIO—Madison Square Garden. 564-4400. Friday, June 20, at 8.

BOB MINTZER BIG BAND—Symphony Space. Friday, June 20, at 8.

JVC JAZZ FESTIVAL—Opening performances in a ten-day series that will be taking place in various halls around the city; on a Hudson River Day Liner; in Waterloo Village, Stanhope, N.J.; and at the Performing Arts Center in Saratoga Springs. For information about tickets to anything, anywhere, call 787-2020. First performance on Friday, June 20, at 6:30: Barry Harris, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . Friday, June 20, at 8: Ella Fitzgerald. (Avery Fisher Hall.) . . . Friday, June 20, at 8: Count Basie Orchestra. (Hudson River Day Liner, Pier 81, Twelfth Ave. at 41st St.) . . . Saturday, June 21, from 3 to 9: "Piano Spectacular," with Dick Hyman, Rio Clemente, Joanne Brackeen, and others. (Waterloo Village.) . . . Saturday, June 21, at 6:30: Ellis Larkins, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . Saturday, June 21, at 7 and 11: Miles Davis and Spyro Gyra. (Avery Fisher Hall.) . . . Saturday, June 21, at 8: Lester Bowie's Brass Fantasy and the Ganelin trio. (Town Hall, 123 W. 43rd St.) Once again, for information about tickets to any of the above, call 787-2020.

STEELEYE SPAN and LEO KOTKE—With Mimi Farina. (Beacon Theatre, Broadway at 74th St. 787-1477. Saturday, June 21, at 8.)

JAZZ CENTER OF NEW YORK—Friday, June 20, at

S	M	T	W	T	F	S
			11	12	13	14
15	16	17	18	19	20	21

9:30 and 11: Oscar Brown, Jr. . . . Saturday, June 21, at 9: Frank Owens in a tribute to Eubie Blake. (380 Lafayette St. 505-5660.)

JAZZ CULTURAL THEATRE—Friday, June 13, at 10, 11:30, and 1: C-Sharp. . . . Saturday, June 14, at 10, 11:30, and 1: Chris Anderson trio. . . . Friday through Sunday, June 20-22, at 10 and midnight: Jaki Byard & the Apollo Stompers. (Eighth Ave. between 28th and 29th Sts. 502-4300.)

ART

(Unless otherwise noted, galleries are open Tuesdays through Saturdays from around 10 or 11 to between 5 and 6.)

GALLERIES—UPTOWN

JEAN-BAPTISTE CAMILLE COROT (1796-1875) and EUGÈNE DELACROIX (1798-1863)—A loan show of paintings, drawings, and prints by each of these artists. Through June 27. (Sculpture Center, 22 E. 80th St. Open Mondays.)

ALAN FALK—Paintings of beach scenes, for the most part. Through June 27. (Perlow, 980 Madison Ave., at 76th St. Open Mondays.)

KEN FRIEDMAN—Posterlike paintings inspired by Nordic myths, by a member of the Fluxus group. Through June 28. (Schlesinger-Boisante, 822 Madison Ave., at 69th St.)

FERNAND LÉGER (1881-1955) and PICASSO (1881-1973)—Oils, mostly, hung informally. Through Friday, June 13. (Perls, 1016 Madison Ave., at 78th St.)

MATTA—Large pastel drawings inspired by Don Quixote. Through June 30. (Spanish Institute, 684 Park Ave., at 68th St. Open Mondays.)

PAUL RESIKA—Watercolors of the pier in Provincetown, among other paintings. Through July 2. (Graham, 1014 Madison Ave., at 78th St. Open Mondays; closed Saturdays.)

JOHN SINGER SARGENT (1856-1925)—A benefit show of Impressionist paintings done in England and France in the eighteen-eighties. Through Saturday, June 14. (Coe Kerr, 49 E. 82nd St.)

TONY SMITH (1912-80)—Abstract paintings from the fifties and sixties; also, bronzes cast in smaller sizes than the larger-scale originals. Through Saturday, June 21. (Fourcade, 36 E. 75th St.)

GRAHAM SNOW—Wall constructions by a British artist who has a penchant for the obelisks and architectural follies of his homeland. Through July 31. (Vanderwoude Tananbaum, 24 E. 81st St.)

MICHAEL TETHEROW—Abstract paintings and related drawings. Through Saturday, June 14. (McCoy, 19 E. 71st St.)

WILLARD GALLERY ANNIVERSARY—The gallery has mounted the works of artists it has sponsored since 1974, Lois Lane, Donald Sultan, Susan Rothenberg among them, in the second of two

fiftieth-anniversary exhibits in memory of its founder, Marian Willard Johnson. Through June 27. (Willard, 29 E. 72nd St. Open Mondays; closed Saturdays.)

GROUP SHOWS—At the **CENTER FOR AFRICAN ART**, 54 E. 68th St.: "African Aesthetics: The Carlo Monzino Collection," comprising works in wood, mainly, but also in gold, ivory, bronze, stone, and terra-cotta, and including the famous "Black Venus." Through Sept. 7. (Open Sundays, noon to 5.) . . . **HIRSCHL & ADLER MODERN**, 851 Madison Ave., at 70th St.: Four paintings by Joe Zucker from the early seventies (his cotton-ball period), two sculptures from the mid-seventies by Christopher Wilmarth, and four paintings from the sixties by Cy Twombly. Through June 27. (Open Mondays; closed Saturdays.) . . . **STONE**, 48 E. 86th St.: Paintings of New York City by Ray Kass, New England genre scenes painted on steel saws by Jacob Kass, and kinetic sculptures by Roy Superior. Through July 2. (Open Mondays; closed Saturdays.) . . . **WILDENSTEIN**, 19 E. 64th St.: A benefit show of about a hundred paintings and works on paper from the Princeton University Art Museum. These works—by Europeans and Americans—include a Degas "Dancers," Ammi Phillips's "The Girl in Pink," and Willem de Kooning's "Black Friday." Through June 27. (Open Mondays; closed Saturdays.)

GALLERIES—57TH STREET AREA

JEAN-PIERRE BERTRAND / YASUO KUNIYOSHI (1889-1953)—An installation of steel-framed works containing sheets of paper that have been rubbed with lemon, honey, salt, or natural pigment. Through June 27. / Drawings from the twenties. Through Thursday, June 19. (Zabriskie, 724 Fifth Ave., at 57th St. Open Mondays.) . . . Paintings and drawings by Kuniyoshi are also at the Whitney Museum branch at Park Ave. and 42nd St.

NORMAN BLUHM—A two-gallery show of voluptuous abstract paintings. Through Saturday, June 14. (Washburn, 42 E. 57th St., and 113 Greene St.)

ROGER BOYCE—Paintings on composition board, cut and colored so that cubes and rectangles of various colors seem to have crystallized on the gallery walls. Through Friday, June 13. (Lamagna, 50 W. 57th St.)

PETER CHARLES / COLIN SMITH—Small sculptural wall pieces in steel and wood, most of them involving a vase and its pedestal. / Paintings of figures, nearly always seen from the back at the moment of departure—one leaving a swimming pool, another entering a car. Through Saturday, June 21. (Siegel, 24 W. 57th St.)

LISA DINTHOFF—Still-life scenes; bottles, marbles, plates, glasses, doilies, mats, etc. Through Saturday, June 21. (Schmidt Bingham, 41 W. 57th St. Open Mondays.)

ROBERT HENRI (1865-1929)—Thirty-three paintings, including portraits, nudes, Spanish subjects, and cityscapes of Paris and Philadelphia. Through July 18. (Berry-Hill, 743 Fifth Ave., at 57th St. Open Mondays; closed Saturdays.)

HENRY MOORE—Sculptures, drawings, and prints. Through Saturday, June 14. (Heidenberg, 50 W. 57th St.) . . . A single large bronze sculpture. Through Aug. 29. (Weintraub, 992 Madison Ave., at 77th St.)

PICASSO (1881-1973)—Two exhibitions. Olympian doodles extracted from forty-five sketchbooks detailing the artist's day-to-day work. (He kept a hundred and seventy-five sketchbooks during his life.) Through Aug. 1. (Pace, 32 E. 57th St.) . . . A loan show of fifty drawings that are being shown in public for the first time. Through June 27. (Mazoh, 13 E. 76th St. Open Mondays; closed Saturdays.) . . . P.S.: Picasso is also represented at Pace-MacGill (see below, under "Photography").

LAWRENCE POONS / SAM FRANCIS—Large-scale canvases in which thickly applied paint is underlaid with rope and spongy materials. / Paintings and works on paper executed between 1955 and 1963. Through July 3. (Emmerich, 41 E. 57th St. Open Mondays; closed Saturdays.)

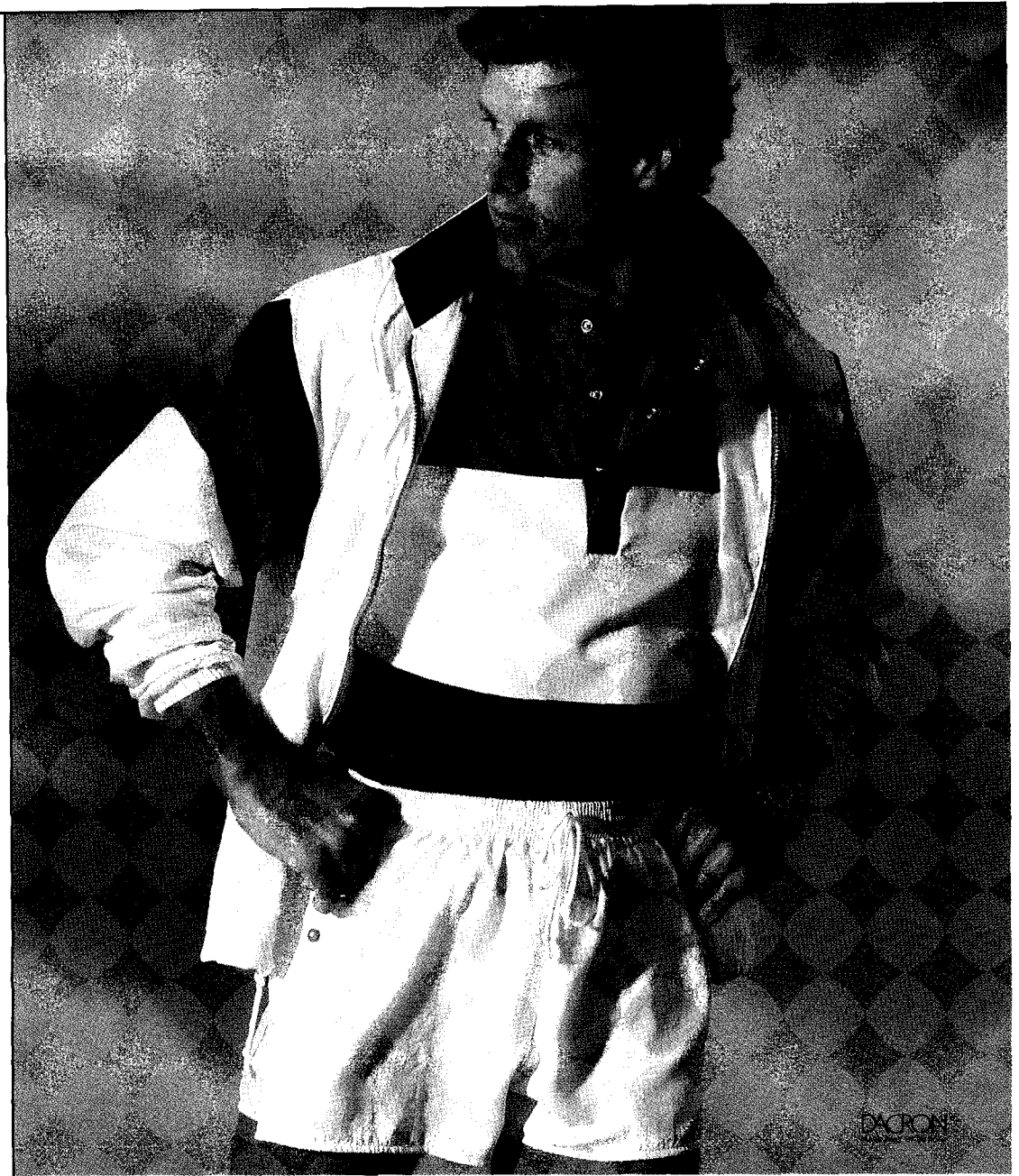
BONNIE SKLARSKI—This artist's studies in geology are evident in the carefully detailed rock



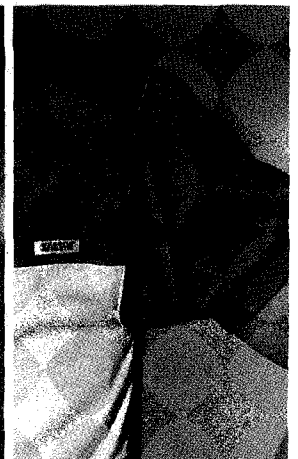
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GOINGS ON ABOUT TOWN

strata seen in her idyllic landscapes, which are sometimes populated by prehistoric people. Through Wednesday, June 18. (Schoelkopf, 50 W. 57th St.)

JONATHAN TALBOT—Paper collages on a greeting-card scale. Through Saturday, June 14. (Gimpel, 724 Fifth Ave., at 57th St.)

ORFEO TAMBURI—Paintings of Paris. Through June 27. (Marisa del Re, 41 E. 57th St. Open Mondays; closed Saturdays.)

GROUP SHOWS—At the **BORGENICHT**, 724 Fifth Ave., at 57th St.: Nonobjective and abstract styles predominate in an invitational show of paintings by Peggy Cyphers, Tom Felner, Carl Goldhagen, Royce Howes, Kristin Jones and Andrew Ginzel, and Bill Komoski, and a single sculpture by Steve Currie. Through July 3. . . . **DE NAGY**, 41 W. 57th St.: Paintings and sculptures by Robert Goodnough, Stanley Boxer, Ron Gorchov, Tony Robbin, and others. Through July 24. . . . **GALERIE ST. ETIENNE**, 24 W. 57th St.: Works on paper, including prints, by Klimt, Schiele, and Kokoschka. Through Sept. 12. (Closed Saturdays.) . . . **PROTECH**, 37 W. 57th St.: More than two hundred original contemporary architectural drawings. Through Saturday, June 21. . . . **ALEX ROSENBERG**, 20 W. 57th St.: Works that incorporate a window motif—constructions by Ilse Getz, paintings and pastels by Howard Kanovitz, and figure and still-life paintings and drawings by Manoucher Yekta. Through July 11. (Open Mondays.) . . . **TATISCHIEFF**, 50 W. 57th St.: Two painters new to the gallery, Margaret Bowland (portraits) and Harry Orlyk (plein-air landscapes), are represented along with regular members. Through July 31. (Open Mondays; closed Saturdays.)

SCULPTURE—At the **MARIAN GOODMAN**, 24 W. 57th St.: One work apiece by Artschwager, Fabro, Kounellis, Oldenburg, and Serra. Through June 28. (Open Mondays.) . . . **HERSTAND**, 24 W. 57th St.: An all-American, all-abstract selection, with pieces by Bourgeois, Calder, Wilmarth, Joel Fisher, and others. Through July 31. . . . **PEARL**, 38 E. 57th St.: Figurative sculptures by William King, Marisol, Linda Peer, and others. Through July 3.

GALLERIES—SoHo

SEYMOUR BOARDMAN AND RICHARDS RUBEN—Abstract Expressionist paintings by each. Through Saturday, June 14. (Shapolsky, 99 Spring St. Opens at noon.)

JAMES BROOKS / GEORGE SPAYENTA (1918-78)—Abstract Expressionist works on paper. / Sculptures and drawings. Through July 3. (Gruenebaum, 415 West Broadway.)

RUPERT DEESE—Large, scholarly paintings, one dwelling on the beauty of a ship's propeller. Through Wednesday, June 18. (Hoffman, 429 West Broadway.)

BETTI-SUE HERTZ / ELIOT LABLE—Paintings of figures. / Sculptures and drawings. Through Saturday, June 21. (55 Mercer Street Gallery.)

PER KIRKBY—Paintings. Through June 28. (Boone, 417 West Broadway.)

JOSEPH KOSUTH—A printed paragraph from a treatise by Freud, greatly enlarged and for some reason partially crossed out, has been turned into wallpaper, and makes a very stylish repeat pattern as it covers the expansive Castelli walls. Through Saturday, June 14. (Castelli, 142 Greene St.)

MARSHA PELS / JOSEPH HASKE—Large-scale bronze sculptures. / Abstract acrylics. Through June 28. (Oscarsson Siegel, 568 Broadway, entrance on Prince St.)

MARTIN RAMIREZ (1885-1960)—Sixty-one drawings by an artist who was an institutionalized schizophrenic and whose obsession with trains comes through clearly. Through June 28. (Kind, 136 Greene St.)

CE ROSER—Abstractions in oils. Through Saturday, June 21. (Ingber, 415 West Broadway.)

HILDA STECKEL / JAMES PILE—Caricaturelike sculptures of sunbathers, bird-watchers, or swimmers done in ceramic and bronze, and scaled to three-quarter size. / Paintings of the adventures of a cartoon character, Arizona Kid, roaming the Southwest and New York. Through June 28. (Steinbaum, 132 Greene St.)

OSAMI TANAKA—Sculptural pieces ranging from small columns to an eight-foot wall sixteen

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feet long, made of unlikely combinations of wood, steel, and paraffin; the latter adds a nice translucent quality to the works. Through June 28. (Cutler, 164 Mercer St.)

ROBERT THERRIEN—Paintings and sculptures that have a kind of stripped-down simplicity and, the artist says, a close kinship to the first snowman he made as a child. Through Saturday, June 14. (Castelli, 420 West Broadway.)

ANTON VAN DALEN—Stark, stylized paintings and drawings of street scenes of the lower East Side during the seventies and of the pigeons the artist raises on rooftops there now. Through Saturday, June 14. (Thorp, 103 Prince St.)

SHELLEY M. WARREN / JACQUELINE CONDERACCI—Large sculptures made of cement or wood or steel, among them a sort of whirligig, twelve feet long, which has a series of six-bladed propellers arrayed on a metal shaft. Through July 12. / Photographs of doorknobs and various kinds of door locks. Through Saturday, June 21. (O. K. Harris, 383 West Broadway.)

GROUP SHOWS—At the **ALLEN**, 110 Greene St.: Works on paper and sculptures by Siri Berg, Babe Shapiro, Barbara Thomas, and others. Through July 15. . . . **BROWN**, 100 Greene St.: Abstractions (sculptures and drawings) by James Casebere, Abraham David Christian, Perry Hoberman, Hilary Kiroos, Ellen Rumm, and Tad Wiley. Through June 27. (Open Mondays; closed Saturdays.) . . . **CONDESLAWLER**, 76 Greene St.: An invitational show of abstract paintings by seventeen artists, among them Richard Pugliese (who selected the works), Pat Colville, and Edwin Ruda. Through June 28. . . . **COWLES**, 420 West Broadway: Agnes Martin, Morris Louis, and Barnett Newman are among the ten artists represented in an exhibit examining the use of the stripe motif in contemporary painting. Through July 11. . . . **THE DRAWING CENTER**, 137 Greene St.: A show entitled "The Northern Landscape: Flemish, Dutch, and British Drawings from the Courtauld Collections" contains some of the major exponents of the landscape genre between the sixteenth century and the nineteenth, among them Bruegel (Pieter, the Elder), Collaert, Constable, and Turner. Through July 26. (Open Wednesday evenings until 8.) . . . **EXIT ART**, 578 Broadway: Bertha Urdang is the curator of an exhibit of paintings, sculptures, and photographs by eight contemporary Israeli artists. Through July 12. (Opens at noon.) . . . **GLADSTONE**, 99 Greene St.: Paintings by Helmut Federle, Olivier Mosset, John Armleder, and Gerwald Rockenschau. Through July 25. . . . **NOSEI**, 100 Prince St.: Visionary landscape paintings by Tod Wizon, a painting in mixed mediums by Brigitta Rohrbach, a large diptych by Chuck Connelly, and other works. Through July 25. . . . **PLUMB**, 81 Greene St.: Sculptures and paintings by seventeen artists, who include Jacques Flèchemuller, Brian Williams, and Hal Saulson. Through July 25. . . . **SPERONE WESTWATER**, 142 Greene St.: Seven artists (among them Joseph Beuys, Lucian Freud, and Richard Long), each represented by drawings from several points in their careers. Through July 31. . . . **WEBER**, 142 Greene St.: Wall works by Dorothea

Rockburne, Judy Pfaff, Michael Glier, Vernon Fisher, Sol LeWitt, and Krzysztof Wodiczko. Through June 28.

SCULPTURE—At the **ALEXANDER**, 59 Wooster St.: The six young sculptors invited to show their pieces here are Andrew Menard, Ann Messner, Dick Miller, Cara Perlman, Jeanne Silverthorne, and Cindy Tower. Through July 3. . . . **GIBSON**, 568 Broadway: Tony Cragg, Mario Merz, Lawrence Weiner, and others. Through July 31. . . . **GREEN**, 152 Wooster St.: Wall, floor, and freestanding abstract pieces by twenty-two artists. Through July 5.

OTHER GALLERIES

MARC BLANE / ROXANNE BLANCHARD—Small sculptural works by a native of the lower East Side who uses basketball backboards and uprooted trees, among other symbols, to make his points. / Drawings of bowls and vases done on frosted plate glass that is lighted from behind with neon; some have recirculating water trickling over them. Through June 29. (P.P.O.W., 337 E. 8th St., near Avenue C. Opens at noon Wednesdays through Sundays.)

TI SHAN HSU—Relief constructions (acrylics, tiles, modelling compound, ceramics, wood) that range in appearance from the façade of an old-fashioned radio to a landscape laid out on the hide of a Holstein cow. Through Sunday, June 15. (Hearn, 735 E. 9th St., just west of Avenue D. Opens at 1 Wednesdays through Sundays.)

CHRISTOF KOHLHOFFER AND MARILYN MINTER—Large canvases chockablock with incidents and images. In one, a group of penguins and an auto with its bright lights on are visible on a background decorated with Arabic lettering in gold leaf. Through Sunday, June 15. (Gracie Mansion Gallery, 167 Avenue A, at 10th St. Opens at 1 Wednesdays through Sundays.)

CHARLES LUCE—Mixed-medium constructions. Through June 22. (Stokker Stikker, 507 E. 6th St. Opens at 1 Wednesdays through Sundays.)

EDGAR NEGRET—Impressive but relatively small-scale sculptures by this Colombian artist who works exclusively in aluminum and paints it black, white, red, or yellow. Through June 28. (Humphrey, a new gallery, at 242 E. 5th St. Opens at noon.)

YOLANDA SHASHATY—Landscapes and seascapes. Through Sunday, June 15. (Sragow, 436 E. 11th St., near Avenue A. Opens at 1 Wednesdays through Sundays.)

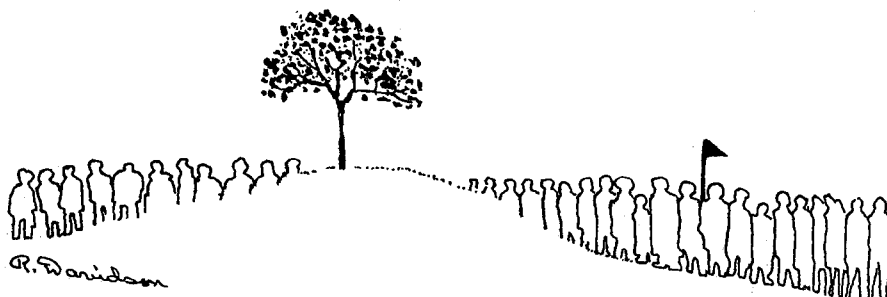
GROUP SHOW—Forty-one well-chosen pieces by full-time workers in local art institutions. Among the works are a "Destroyed Membership Application" from the Modern, by Eric Edgerton, who obliterated the form with a pen-and-ink design, and "Train Station," a vintage photographic print skillfully amended with a pencil, by Myles Aronowitz. Through June 29. (Bond, 30 Bond St. Opens at 1 Wednesdays through Sundays.)

PHOTOGRAPHY

BILL BRANDT (1904-83) / **PICASSO** (1881-1973)—Vintage photographs of nudes. / Manipulated and cutout prints resembling his Cubist paintings. Also, portraits of the artist taken by his contemporaries—Man Ray, Irving Penn, Robert Capa. Through Aug. 1. (Pace-MacGill, 11 E. 57th St.)

HORST / MARINA SCHINZ—Photographs of flowers by each, in garden settings by Miss Schinz. Through Aug. 1. (Staley-Wise, 177 Prince St. Opens at noon.)

JEAN PIGOZZI—Photographs of everyday events



GOINGS ON ABOUT TOWN

in the artist's life. Through Saturday, June 14. (Wolf, 30 W. 57th St.)

JOHN THOMSON (1837-1921)—Albumin prints and carbon prints of the Orient by a Scottish photographer. Through Aug. 3. (Asia Society, 725 Park Ave., at 70th St. Opens at noon on Sundays.)

JANE TUCKERMAN—Photographs of Benares, India, taken in conjunction with the documentary film "Forest of Bliss," also, paintings and collages. Through July 11. (Witkin, 415 West Broadway. Opens at noon on Saturdays.)

NEIL WINOKUR—Clusters of photographs, each cluster representing a single art-world figure—Jon Hassell, William Wegman, Cindy Sherman, and others. The group for Sherman shows a wig, a mask she picked up in Nicaragua, and herself—as is and disguised as a man. Through June 28. (Toll, 146 Greene St.)

GROUP SHOWS—At the **INTERNATIONAL CENTER OF PHOTOGRAPHY**, 1130 Fifth Ave., at 94th St.: More than a hundred prints of Africa by European photographers, dating from the mid-nineteenth century through the First World War. Through June 22. (Tuesdays, noon to 8, with no admission charge after 5; Wednesdays through Fridays, noon to 5; Saturdays and Sundays, 11 to 6.) ... **LAURENCE MILLER**, 138 Spring St.: Photographs and works that incorporate photographs, by Lee Friedlander, Sandra Haber, Gary Brotmeyer, and others. Through July 26. ... **PFEIFER**, 568 Broadway: Photographs used as part of three-dimensional objects—especially freestanding screens—by nine contemporary artists, among them Russell Drisch, Gerald Incandela, and Grace Knowlton. Through June 27.

MUSEUMS AND LIBRARIES

METROPOLITAN MUSEUM, Fifth Ave. at 82nd St.—A chronological arrangement of the school of Nuremberg's Gothic and Renaissance works of art, including oversize carved-oak statues of Christ and the Virgin by Veit Stoss, Dürer's sketch for a chandelier in the shape of a dragon and the finished chandelier itself, and brass sculptures by Peter Vischer the Elder. Through June 22. ... A show of seventy works by Rodin. Through Sunday, June 15. ... "Costumes of Royal India," an extravaganza of garments and accessories evoking palaces of the nineteenth and twentieth centuries. Through Aug. 31. (Open daily except Mondays. Hours: Tuesdays through Sundays, 9:30 to 5:15, and Tuesday evenings until 8:45.)

MUSEUM OF MODERN ART, 11 W. 53rd St.—A comprehensive selection of prints by Jasper Johns. Through Aug. 19. (Open daily, except Wednesdays, 11 to 6, and Thursday evenings until 9.)

GUGGENHEIM MUSEUM, Fifth Ave. at 89th St.—Recent work by Enzo Cucchi, including eight large paintings, a two-part sculpture, and drawings. ... A show of approximately a hundred and twenty drawings and watercolors from the twenties by German realists. Both shows through July 6. (Open daily except Mondays. Hours: Tuesdays, 11 to 8, with no admission charge from 5 to 8; Wednesdays through Sundays, 11 to 5.)

WHITNEY MUSEUM OF AMERICAN ART, Madison Ave. at 75th St.—Shaker design, exemplified by furniture, textiles, farming equipment, cooking utensils, etc., plus several watercolors done as religious tokens. Through Aug. 31. ... A retrospective of works by Alex Katz, including paintings, wood and aluminum cutouts, and collages. Through Sunday, June 15. ... An exhibit entitled "Sacred Images in Secular Art" includes paintings, sculptures, and photographs by a dozen contemporary artists, Italo Scanga, Audrey Flack, and Joel-Peter Witkin among them. Through July 13. (Open daily except Mondays. Hours: Tuesdays, 1 to 8, with no admission charge after 6; Wednesdays through Saturdays, 11 to 5; Sundays, noon to 6.)

BROOKLYN MUSEUM, Eastern Parkway—The Third Western States Exhibition: a hundred and twenty-seven works by forty-five artists, most of whom have not shown their art in our region before. Through Aug. 4. (Also, short films and videos by artists from Western states can be viewed on Saturday, June 14, from 1 to 5:30, in the museum's third-floor lecture hall.) ... A show of thirty-four

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paintings, drawings, and prints by Cézanne on loan from the Henry and Rose Pearlman Foundation. Through July 14. ... Paintings, drawings, and sculptures by the nineteenth-century American artist William Rimmer, including two of his best-known works—the bronze "Falling Gladiator" and the oil "Flight and Pursuit." Through July 28. (Open daily except Tuesdays. Hours: Mondays and Wednesdays through Fridays, 10 to 5; Saturdays, 11 to 6; Sundays, 1 to 6.)

AMERICAN MUSEUM OF NATURAL HISTORY, Central Park W. at 79th St.—An exhibit of contemporary native North American Indian objects, crafted, of course, according to traditional methods. Textiles, pottery, baskets, jewelry, and carvings. (Open daily. Hours: Mondays, Tuesdays, Thursdays, and Sundays, 10 to 5:45; Wednesdays, 10 to 9; Fridays and Saturdays, 10 to 9, with no admission charge after 5.)

AMERICAN ACADEMY AND INSTITUTE OF ARTS AND LETTERS, Broadway at 155th St.—The annual show for new members of the Academy-Institute and for recipients of awards, among them Harrison E. Salisbury, Richard Diebenkorn, Mark di Suvero, Sam Shepard, Lore Segal, Richard Kenney, Frederick Busch, Robert A. Caro, and Morton Gould. Manuscripts, paintings, and sculptures. Through Sunday, June 15. (Open daily, except Mondays, 1 to 4.)

COOPER-HEWITT MUSEUM, Fifth Ave. at 91st St.—A record of the career of dancer-choreographer Bronislava Nijinska. This record includes costumes designed for her by Natalia Gontcharova and Léon Bakst; set designs by Max Ernst and Joan Miró; and a musical score for her ballet "Le Baiser de la Fée" in the handwriting of Igor Stravinsky. The dancer herself is seen in photographs of Diaghilev's Ballets Russes, among others. Through July 13. ... The virtuosity of Hungarian metalsmiths is underscored in a display of gold and silver objects dating from the ninth century to the nineteenth. Through Aug. 10. (Open daily except Mondays. Hours: Tuesdays, 10 to 9, with no admission charge after 5; Wednesdays through Saturdays, 10 to 5; Sundays, noon to 5.) ... Performance in the garden: on Tuesday, June 17, at 6:30, contemporary dance by Elizabeth Streb.

FRICK COLLECTION, 1 E. 70th St.—A loan show of fifty drawings by Ingres, who bequeathed them to a museum in his birthplace, Montauban. Through Sunday, June 15. (Open daily except Mondays. Hours: Tuesdays

through Saturdays, 10 to 6; Sundays, 1 to 6.)

JAPAN HOUSE, 333 E. 47th St.—A show of Japanese porcelains, first and foremost (but also Japanese-influenced wares from China and Europe), which were exported to England when a passion for Arita and Kakiemon gripped collectors there. These particular pieces are from Burghley House and most appear on its inventory lists dated 1688 and 1690. Through July 27. (Open daily, except Mondays, 11 to 5.)

MORGAN LIBRARY, 29 E. 36th St.—A show of drawings, watercolors, prints, and photographs (some of the latter by Beato, Frith, and Bourne) that document British rule in India. Through July 31. (Open daily except Mondays. Hours: Tuesdays through Saturdays, 10:30 to 5; Sundays, 1 to 5.)

NATIONAL ACADEMY OF DESIGN, 1083 Fifth Ave., at 89th St.—Drawings and models by British architects, primarily, spanning three hundred years—from Inigo Jones to Sir Edwin Lutyens. The subjects are generically called country houses but are known individually as Hampton Court Palace, Blenheim, Castle Drogo, etc. Through June 29. (Open daily except Mondays. Hours: Tuesdays, noon to 8, with no admission charge after 5; Wednesdays through Sundays, noon to 5.)

NEW YORK PUBLIC LIBRARY, Fifth Ave. at 42nd St.—A display of English and American literary material that the Berg Collection has acquired over the past ten years—the typescript of Virginia Woolf's play, "Freshwater," and correspondence between W. B. Yeats and Lady Gregory, for instance. (Open daily, except Sundays and Thursdays, 10 to 6.)

ART AFTER DARK

(Performance, music, dance, video, film, and combinations thereof.)

THE KITCHEN, 512 W. 19th St. 255-5793—Music. Wednesday, June 11: Bhopal, Gwen Toth, and Bill Horvitz; Thursday, June 12: Bobby Previte Quintet, David Fulton, and Zeena Parkins; Friday, June 13: Carbon, Jason Hwang, and Emanon; Saturday, June 14: Force Field, Slap, and Percy Jones. (Evenings at 9.)

P.S. 122, 150 First Ave., at 9th St. 477-5288—Crowsfeet Dance Collective presents "Barbie's Revenge." Friday through Sunday, June 13-15, at 9. ... Jim Neu (performance), Fridays at 10:30. ... Beth Lapides (performance), Saturdays at 10:30.

NOTE—Creative Time has opened its summer program at the Brooklyn Bridge Anchorage, Front St. (Brooklyn), with a play by Matthew Maguire called "The Memory Theatre of Giulio Camillo." Through June 29. (Wednesdays through Sundays at 7:30; for tickets, call 619-1955.) ... Also, installations by artists and architects, created for the theatre piece, are on view. Through July 13. (Wednesdays through Saturdays, noon to 6; Sundays, noon to 3.)

MUSIC

RICK PAITZ, JOEL CHADABE, and NEIL ROLNICK—A program of computer music by composers associated with the Rensselaer Polytechnic Institute. (Alternative Museum, 17 White St. 966-4444. Wednesday, June 11, at 8.)

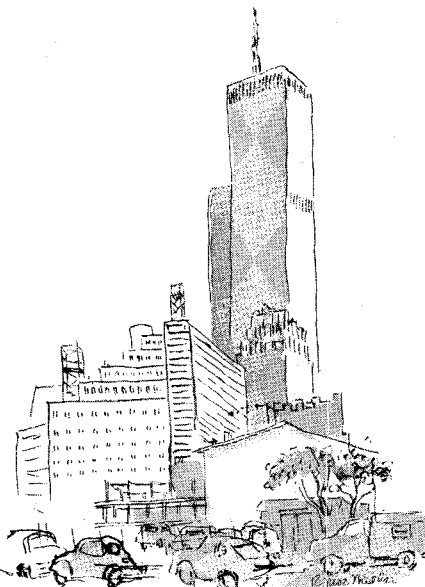
PETER PEARS MEMORIAL CONCERT—With Grayson Hirst, tenor; Gerald Ranck, harpsichord; and William Zito, lute and guitar. (Cathedral of St. John the Divine, Amsterdam Ave. at 112th St. Saturday, June 14, at 7:30. No tickets necessary.)

COMPOSERS' SHOWCASE—The last in a series of programs, this one devoted to the première of Lee Breuer and Bob Telson's theatre piece "The Warrior Ant," presented in concert form. With Japanese Bunraku puppets. (Alice Tully Hall. 362-1911. Monday, June 16, at 8.)

DONALD JOYCE—A program of German and Dutch organ music. (Church of St. John the Evangelist, First Ave. at 55th St. Monday, June 16, at 8. Tickets at the door on the night of the concert.)

MICHAEL COLLIER—Piano, in a Beethoven-Stravinsky program. (St. Stephen's Church, 122 W. 69th St. Monday, June 16, at 8. Tickets at the door on the night of the concert.)

ST. LUKE'S CHAMBER ENSEMBLE—A benefit program of string quartets. (St. Luke in-the-Fields,



487 Hudson St., at Grove St. Wednesday, June 18, at 8. For information about tickets, call 226-1115.)

KAREN HUTCHINSON—Piano. (Merkin Concert Hall, Abraham Goodman House, 129 W. 67th St. 362-8719. Thursday, June 19, at 8.)

GOLDEN FLEECE, LTD.—Presenting Jack Gottlieb's "Movie Opera (Prevue)," a work for soprano, clarinet, cello, and piano; and Myron Fink's one-act opera "The Island of Tomorrow," with a libretto by Lou Rodgers. (Actors' Outlet Theatre, 120 W. 28th St. Thursday and Friday, June 19-20, at 8; Saturday, June 21, at 3 and 8; and Sunday, June 22, at 3 and 7. For tickets, call 691-6105.)

AN EVENING OF BEL CANTO—Performed by Evelyn Quaife, soprano; Adelle Nicholson, mezzo-soprano; Dale Smith, tenor; and Abe Polokoff, baritone. (Merkin Concert Hall. Saturday, June 21, at 9.)

SPORTS

BASEBALL—**METS** at Shea Stadium: Vs. Philadelphia, Wednesday, June 11, at 7:35. . . . **Pittsburgh**, Friday, June 13, at 7:35; Saturday, June 14, at 1:35; and Sunday, June 15, at 1:05 (doubleheader). . . . **Chicago**, Thursday and Friday, June 19-20, at 7:35; and Saturday, June 21, at 1:35. . . . **YANKEES** at Yankee Stadium: Vs. Boston, Monday through Wednesday, June 16-18, at 7:30.

GOLF—U.S.G.A. Open Championship. (Shinnecock Hills Golf Club, Southampton. Thursday through Sunday, June 12-15.)

RACING—At **BELMONT**: Daily, except Tuesdays, at 1; through Monday, July 28. The Mother Goose, Saturday, June 14, and the Bowling Green Handicap, Sunday, June 15. (Frequent trains leave Penn Station for the track Mondays and Wednesdays through Fridays between 10:45 and 1:13, and Saturdays and Sundays between 11:01 and 1:19.) . . . **GARDEN STATE PARK**, Cherry Hill, N.J.: Nightly at 7:30; through Saturday, June 14. The Vineland Handicap, Saturday, June 14. . . . **MONMOUTH PARK**, Oceanport, N.J.: Weekdays at 1:30; through Saturday, Aug. 30. . . . **ATLANTIC CITY**, Mays Landing, N.J.: Mondays and Wednesdays through Saturdays at 7:30, from Friday, June 20, through Saturday, Aug. 30.

TROTting—At **ROOSEVELT RACEWAY**, Westbury: Nightly at 8; through Monday, June 16. . . . **YONKERS RACEWAY**: Nightly at 8, from Tuesday, June 17, through Sunday, Aug. 3. . . . **SARATOGA RACEWAY**, Saratoga Springs: Tuesdays through Saturdays at 8; through Saturday, Nov. 22. . . . **MEADOWLANDS**: Weeknights at 8; through Saturday, Aug. 2.

ET ALIA

PROSE READINGS—"Bloomsday on Broadway V," a program of readings from James Joyce's "Ulysses" and "Finnegans Wake," by Jonathan Hadary, Roscoe Lee Browne, Fritz Weaver, Tammy Grimes, Amanda Plummer, and others. (Symphony Space, Broadway at 95th St. Monday, June 16, from 7 p.m. until 1 a.m. For information about tickets and the reading schedule, call 864-5400.)

AUCTIONS—At Sotheby's, York Ave. at 72nd St. (Exhibition hours: Tuesdays through Saturdays, 10 to 5; Sundays, 1 to 5.)—Thursday, June 12, at 10:15 and 2: Fabergé and other Russian works of art, *objets de vertu*, and silver. . . . **Monday**, June 16, at 10:15 and 2: Watches and clocks.

THE GREAT OUTDOORS

METROPOLITAN OPERA, CONCERT PRODUCTIONS—**CENTRAL PARK'S GREAT LAWN**: Tuesday, June 17, at 8 (rain date, June 19), "Aida," with Aprile Mollo, Grace Bumbry, James McCracken, and Louis Quilico; conducted by Nello Santi. . . . **SNUG HARBOR**, Staten Island: Wednesday, June 18, at 8 (rain date, June 19), "Roméo et Juliette," with Gail Robinson, John Fowler, Brian Schexnayder, and Paul Plishka; John Mauceri. . . . **MARINE PARK**, Brooklyn: Friday, June 20, at 8 (rain date, June 22), "Aida," with the same cast as June 17, except that Ernesto Veronelli will replace Mr. McCracken. . . . **CUNNINGHAM PARK**, Queens: Saturday, June 21, at 8 (rain date, June 22), "Roméo et Juliette," with the same cast as June 18.

BROOKLYN BOTANIC GARDEN—The Cranford Rose Garden is open for the season, with more than six thousand rosebushes representing seven hundred varieties. (Tuesdays through Fridays, 9 to 4:30; Saturdays and Sundays, 10:30 to 4:30.)

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GOINGS ON ABOUT TOWN

EAST SIDE

LITTLE THEATRE, Public Theatre, 425 Lafayette St. (598-7171; theatre opens in the late afternoon and is closed Mondays.)

Through June 19: "Eléna et les Hommes" (†) and "Dreamchild" (†).

From June 20: "The Wall" (1983; directed by Yilmaz Güney; in Turkish); and "Dreamchild" (†).

NEW GRAMERCY, Lexington at 23rd. (475-1660)
Through June 12: "SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson.

From June 13: To be announced.

BAY CINEMA, 2nd Ave. at 32nd. (679-0160)
Through June 12: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.

From June 13: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

MURRAY HILL, 160 E. 34th. (685-7652)
Through June 12: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

From June 13: To be announced.

LOEWS 34TH STREET SHOWPLACE, 238 E. 34th. (532-5544)

Theatre 1: Through June 12: "At Close Range" (James Foley), with Sean Penn and Christopher Walken. From June 13: To be announced.

Theatre 2: "Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

Theatre 3: "Top Gun" (†).

34TH ST. EAST, 241 E. 34th. (683-0255)
"Raw Deal" (John Irvin), with Arnold Schwarzenegger.

EASTSIDE CINEMA, 3rd Ave. at 55th. (755-3020)
Through June 12: "Demons."

From June 13: To be announced.

SUTTON, 3rd Ave. at 57th. (759-1411)
Through June 12: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

From June 13: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

GOTHAM CINEMA, 3rd Ave. at 58th. (759-2262)
"SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson.

PLAZA, 42 E. 58th. (355-3320)
Through June 12: "Bliss" (Ray Lawrence).

From June 13: "Big Trouble" (John Casavetes), with Peter Falk and Alan Arkin.

MANHATTAN I AND 2, 3rd Ave. at 59th. (935-6420)
Theatre 1: Through June 12: "Jo Jo Dancer, Your Life Is Calling" (†). From June 13: To be announced.

Theatre 2: "Invaders from Mars" (Tobe Hooper), with Karen Black.

BARONET AND CORONET, 3rd Ave. at 59th. (355-1663)
Theatre 1: "Letter to Brezhnev" (Chris Bernard).

Theatre 2: "Not Quite Paradise" (Lewis Gilbert).

D. W. GRIFFITH, 235 E. 59th. (759-4630)
Through June 12: "Down and Out in Beverly Hills" (†).

From June 13: "Bliss" (Ray Lawrence).

CINEMA I AND II, 3rd Ave. at 60th. (753-6022/0774)
Theatre 1: Through June 12: "Big Trouble" (John Casavetes), with Peter Falk and Alan Arkin. From June 13: "Mona Lisa" (†).

Theatre 2: "A Great Wall" (Peter Wang; in English and Mandarin).

GEMINI I AND 2, 2nd Ave. at 64th. (832-1670)
Theatre 1: Through June 12: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg. From June 13: To be announced.

Theatre 2: Through June 12: "At Close Range" (James Foley), with Sean Penn and Christopher Walken. From June 13: To be announced.

BECKMAN, 2nd Ave. at 66th. (737-2622)
"Hannah and Her Sisters" (†).

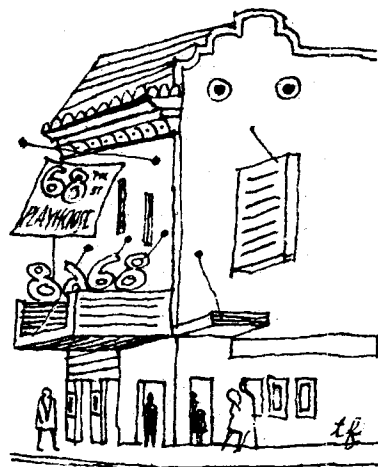
LOEWS NEW YORK TWIN I AND 2, 2nd Ave. at 67th. (744-7339)

Theatre 1: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.

Theatre 2: "Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

68TH ST. PLAYHOUSE, 3rd Ave. at 68th. (734-0302)

THE MOVIE HOUSES



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FILMS ACCOMPANIED BY A DAGGER ARE DESCRIBED IN THE "IN BRIEF" SECTION, STARTING ON PAGE 20.

"3 Men and a Cradle" (Coline Serreau; in French).

LOEWS TOWER EAST, 3rd Ave. at 71st. (879-1313)
"Sweet Liberty" (†).

U. A. EAST, 1st Ave. at 85th. (249-5100)
Through June 12: "At Close Range" (James Foley), with Sean Penn and Christopher Walken.

From June 13: To be announced.

LOEWS ORPHEUM I AND 2, 3rd Ave. at 86th. (289-4607)
Theatre 1: "Top Gun" (†).

Theatre 2: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

86TH ST. EAST, 3rd Ave. at 86th. (249-1144)
Through June 12: "F/X" (†).

From June 13: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

R.K.O. CENTURY 86TH ST. TWIN, Lexington at 86th. (289-8900)
Theatre 1: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

Theatre 2: "Invaders from Mars" (Tobe Hooper), with Karen Black.

WEST SIDE

FILM FORUM I AND 2, 57 Watts St. (431-1590); Mondays through Fridays, theatre opens in the late afternoon.)

Theatre 1: "The Eyes of the Birds" (1982; directed by Gabriel Auer; in French), with Roland Amstutz.

Theatre 2: Through June 19: "The Cosmic Eye" (Faith Hubley), a full-length animated film. From June 20: "The 400 Blows" (†) and "Shoot the Piano Player" (†).

BLEECKER ST. CINEMA I AND 2, 144 Bleecker St. (674-2560)
Theatre 1: "Home of the Brave" (Laurie Anderson), with Anderson.

Theatre 2: A program of animated short films.

WAVERLY I AND 2, 6th Ave. at 3rd. (929-8037)
Theatre 1: Through June 12: "Signal 7" (Rob Nilsson). From June 13: To be announced.

Theatre 2: "Absolute Beginners" (†).

8TH ST. PLAYHOUSE, 52 W. 8th. (674-6515; Mondays through Fridays, theatre opens in the late afternoon.)

"Brazil" (†).

R.K.O. ART GREENWICH TWIN, Greenwich Ave. at 12th. (929-3350)
Theatre 1: Through June 12: "Jo Jo Dancer, Your Life Is Calling" (†). From June 13:

"The Manhattan Project" (Marshall Brickman), with John Lithgow.

Theatre 2: Through June 12: "Sweet Liberty" (†). From June 13: To be announced.

QUAD CINEMA, 34 W. 13th. (255-8800)
Theatre 1: "Desert Hearts" (Donna Deitch).

Theatre 2: "F/X" (†).

Theatre 3: "Hannah and Her Sisters" (†).

Theatre 4: "Invaders from Mars" (Tobe Hooper), with Karen Black.

23RD ST. WEST TRIPLEX, 333 W. 23rd. (989-0060)
Theatre 1: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.

Theatre 2: Through June 12: "Desert Bloom" (Eugene Corr), with Jon Voight and JoBeth Williams. From June 13: To be announced.

Theatre 3: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.

GUILD, 33 W. 50th. (757-2406)
Through June 12: "Femmes de Personne" (Christopher Frank; in French), with Marthe Keller, Philippe Léotard, and Jean-Louis Trintignant.

From June 13: "Big Trouble" (John Casavetes), with Peter Falk and Alan Arkin.

57TH ST. PLAYHOUSE, 110 W. 57th. (581-7360)
Through June 12: "Hannah and Her Sisters" (†).

From June 13: To be announced.

NEW CARNEGIE, 225 W. 57th. (582-4582)
Through June 12: "On the Edge" (Rob Nilsson), with Bruce Dern and John Marley.

From June 13: "Belizaire, the Cajun" (Glen Pitre), with Armand Assante.

PARIS, 4 W. 58th. (688-2013)
"A Room with a View" (†).

CINEMA 3, 2 W. 59th. (752-5959)
Through June 12: "F/X" (†).

From June 13: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

LOEWS PARAMOUNT, B'way at 61st. (247-5070)
"Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

LINCOLN PLAZA I, 2, AND 3, B'way at 63rd. (757-2280)

Theatre 1: "Vagabond" (†).

Theatre 2: "Tea in the Harem" (Mehdi Charef; in French).

Theatre 3: "The Trip to Bountiful" (†).

CINEMA STUDIO I AND 2, B'way at 66th. (877-4040)

Theatre 1: "Ran" (†).

Theatre 2: "What Happened to Kerouac?" (Richard Lerner and Lewis MacAdams), a documentary.

EMBASSY 72ND ST. I AND 2, B'way at 72nd. (724-6745)

Theatre 1: "My Beautiful Laundrette" (†).

Theatre 2: "Hard Choices" (Rick King).

LOEWS 84TH STREET SIXPLEX, B'way at 84th. (877-3600)

Theatre 1: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

Theatre 2: "At Close Range" (James Foley), with Sean Penn and Christopher Walken.

Theatre 3: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

Theatre 4: "Top Gun" (†).

Theatre 5: "SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson.

Theatre 6: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.

OLYMPIA QUAD, B'way at 107th. (865-8128)
Theatre 1: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

Theatre 2: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.

Theatre 3: "Invaders from Mars" (Tobe Hooper), with Karen Black.

Theatre 4: Through June 12: "Jo Jo Dancer, Your Life Is Calling" (†). From June 13:

"Back to School" (Alan Metter), with Rodney Dangerfield.

TIMES SQUARE AREA

CRITERION THEATRES, B'way at 44th. (354-0900)

Theatre 1: "SpaceCamp" (directed by Harry Winer), with Kate Capshaw and Lea Thompson.

Theatre 2: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.

Theatre 3: "The Color Purple" (†).

Theatre 4: "8 Million Ways to Die" (†).

Theatre 5: "Hannah and Her Sisters" (†).

Theatre 6: Through June 12: "Police Academy 3: Back in Training" (Jerry Paris), with Steve Guttenberg. From June 13: "F/X" (†).

EMBASSY 1, B'way at 46th. (757-2408)

Through June 12: "Jake Speed" (Andrew Lane), with Wayne Crawford.
From June 13: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.

EMBASSY 2, 3, AND 4, B'way at 47th. (730-7262)

Theatre 2: Through June 12: "Say Yes." From June 13: "Desert Bloom" (Eugene Corr), with Jon Voight and JoBeth Williams.

Theatre 3: "Down and Out in Beverly Hills" (†).

Theatre 4: "A Nightmare on Elm Street" (1984; Wes Craven), with John Saxon and Ronlee Blakely; and "A Nightmare on Elm Street, Part 2: Freddy's Revenge" (Jack Sholder).

LOEWS ASTOR PLAZA, B'way at 44th. (869-8340)

"Top Gun" (†).

LOEWS STATE 1 AND 2, B'way at 45th. (575-5060)

Theatre 1: "Sweet Liberty" (†).
Theatre 2: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

NEW EMBASSY 49TH STREET, Seventh Ave. at 49th. (757-7003)

"Sleeping Beauty" (1959), a full-length Walt Disney cartoon.

R.K.O. CENTURY NATIONAL TWIN, B'way at 44th. (869-0950)

Theatre 1: "Jo Jo Dancer, Your Life Is Calling" (†).

Theatre 2: Through June 12: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg. From June 13: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

R.K.O. CENTURY WARNER TWIN, B'way at 47th. (975-8369)

Theatre 1: "Invaders from Mars" (Tobe Hooper), with Karen Black.

Theatre 2: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

U. A. TWIN 1 AND 2, B'way at 49th. (247-1635)

Theatre 1: Through June 12: "At Close Range" (James Foley), with Sean Penn and Christopher Walken. From June 13: To be announced.

Theatre 2: Through June 12: "Demons." From June 13: To be announced.

REVIVAL HOUSES

CINEMA VILLAGE, 22 E. 12th. (924-3363)

Through June 12: "8½" (1963; directed by Federico Fellini; in Italian), with Marcello Mastroianni, Anouk Aimée, Sandra Milo, and Claudia Cardinale; and "I Vitelloni" ("The Young and the Passionate"; 1953; Federico Fellini; in Italian), with Alberto Sordi, Leopoldo Trieste, Franco Interlenghi, and Franco Fabrizi.

June 13-14: "Midnight Cowboy" (1969; John Schlesinger), with Dustin Hoffman and Jon Voight; and "Mean Streets" (1973; Martin Scorsese), with Robert De Niro and Harvey Keitel.

June 15: "An Unmarried Woman" (†) and "Kramer vs. Kramer" (†).

June 16-17: "La Dolce Vita" (1960; Federico Fellini; in Italian), with Marcello Mastroianni and Anita Ekberg.

June 18-19: "The Marquise of O..." (1976; Eric Rohmer; in German), with Edith Clever and Bruno Ganz; and "Nana" (1957; Christian-Jaque; in French), with Martine Carol and Charles Boyer.

June 20-21: "Gallipoli" (1981; Peter Weir), with Mel Gibson, Mark Lee, and Bill Kerr; and "The Year of Living Dangerously" (1983; Peter Weir), with Mel Gibson, Sigourney Weaver, and Linda Hunt.

REGENCY, B'way at 67th. (724-3700)

June 11: "The Immortal Story" (1968; Orson Welles), with Jeanne Moreau; "I'll Never Forget What's 'Isname'" (1968; Michael Winner), with Orson Welles and Oliver Reed; and "Get to Know Your Rabbit" (1972; Brian De Palma), with Tom Smothers and John Astin.

June 12-14: "Jane Eyre" (†); and "Chimes at Midnight" ("Falstaff," 1967; Orson Welles), with Welles, Keith Baxter, John Gielgud, Margaret Rutherford, and Jeanne Moreau.

June 15-16: "Prince of Foxes" (1949; Henry

King), with Tyrone Power, Wanda Hendrix, and Orson Welles; and "Macbeth" (1948 †).

June 17: "The Challenge: A Tribute to Modern Art" (1978; Herbert Kline), a documentary narrated by Orson Welles.

June 18: "Treasure Island" (1972; John Hough), with Orson Welles, Walter Slezak, and Kim Burfield; and "The Black Rose" (1950; Henry Hathaway), with Tyrone Power and Orson Welles.

June 19-21: "The Stranger" (1946; Orson Welles), with Welles, Edward G. Robinson, and Loretta Young; and "Touch of Evil" (1958; Orson Welles), with Welles, Charlton Heston, and Janet Leigh.

THALIA, B'way at 95th. (222-3370)

June 11: "Inserts" (1976; John Byrum), with Richard Dreyfuss; and "The Red Kimono" (1926; Dorothy Reid; a silent film).

June 12: "La Balance" (1983; Bob Swaim; in French), with Nathalie Baye and Philippe Léotard; and "I Married a Shadow" (1983; Robin Davis).

June 13-14: "Death Sentence" (1985; Witold Orzechowski); and "The Return" (1983; Witold Orzechowski).

June 15: "Wetherby" (†); and "The Sailor from Gibraltar" (1967; Tony Richardson), with Jeanne Moreau, Ian Bannen, and Vanessa Redgrave.

June 16: A program of cartoons.

June 17: "Fool for Love" (†); and "Paris, Texas" (1984; Wim Wenders), with Harry Dean Stanton, Nastassja Kinski, and Dean Stockwell.

June 18: "Himatsuri" (1985; Mitsuo Yanagimachi; in Japanese); and "Demon Pond" (1982; Masahiro Shinoda; in Japanese).

June 19: "Pee-wee's Big Adventure" (†); and "Mon Oncle" (1958; Jacques Tati; in French), with Tati.

June 20: "Confessionally Yours" (1984; François Truffaut; in French), with Fanny Ardant and Jean-Louis Trintignant; and "The Woman Next Door" (1981; François Truffaut; in French), with Gérard Depardieu and Fanny Ardant.

June 21: "Close Encounters of the Third Kind" (1977; Steven Spielberg), with Richard Dreyfuss, François Truffaut, Melinda Dillon, Teri Garr, and Bob Balaban; and "Le Dernier Combat" (1984; Luc Besson; a French film, without dialogue).

THALIA SoHo, 15 Vandam St. (675-0498)

June 11: "La Bête Humaine" (1938; Jean Renoir; in French), with Jean Gabin; and "Maria Chapdelaine" (1935; Julien Duvivier; in French), with Madeleine Renaud and Jean Gabin.

June 12: A program of cartoons.

June 13-14: "Spellbound" (1945; Alfred Hitchcock), with Ingrid Bergman, Gregory Peck, Michael Chekhov, John Emery, and Leo G. Carroll; and "Sabotage" ("The Woman Alone"; 1936; Alfred Hitchcock), with Sylvia Sydney, Oscar Homolka, and Desmond Tester.

June 15: "Three Brothers" (1982; Francesco Rosi; in Italian), with Philippe Noiret, Michele Placido, and Vittorio Mezzogiorno; and "Padre Padrone" (1977; Paolo and Vittorio Taviani; in Italian).

June 16: "The Exorcist" (†) and "Exorcist II: The Heretic" (†).

June 17: "Kamikaze '89" (1983; Wolf Gremm; in German), with Rainer Werner

Fassbinder; and "A Woman in Flames" (1984; Robert Van Ackeren; in German), with Gudrun Landgrebe.

June 18: "To Live and Die in L.A." (1985; William Friedkin), with William L. Petersen and Willem Dafoe; and "Cruising" (†).

June 19: A program of cartoons.

June 20-21: "Top of the Whale" (1981; Raoul Ruiz).

THEATRE 80 ST. MARKS, 80 St. Marks Pl. (254-7400)

June 11: "Up the River" (1930; John Ford), with Spencer Tracy, Humphrey Bogart, and Warren Hymers; and "Judge Priest" (1934; John Ford), with Will Rogers and Stepin Fetchit.

June 12: "Targets" (1968; Peter Bogdanovich), with Boris Karloff; and "Saint Jack" (1979; Peter Bogdanovich), with Ben Gazzara.

June 13-14: "Notorious" (1946; Alfred Hitchcock), with Cary Grant, Ingrid Bergman, Claude Rains, and Louis Calhern; and "Spellbound" (1945; Alfred Hitchcock), with Ingrid Bergman, Gregory Peck, Michael Chekhov, John Emery, and Leo G. Carroll.

June 15: "The Last Metro" (1981; François Truffaut; in French), with Catherine Deneuve, Gérard Depardieu, and Jean Poiret; and "The Woman Next Door" (1981; François Truffaut; in French), with Gérard Depardieu and Fanny Ardant.

June 16: "Vampyr" (1932; Carl Dreyer; in German), with Julian West, Henriette Gérard, Rena Mandel, and Sybille Schmitz; and "Day of Wrath" (1943; Carl Dreyer; in Danish).

June 17: "Weekend in Havana" (1941; Walter Lang), with Alice Faye, John Payne, and Carmen Miranda; and "Greenwich Village" (1944; Walter Lang), with Carmen Miranda, Don Ameche, and William Bendix.

June 18: "The Lady from Shanghai" (1948; Orson Welles), with Rita Hayworth, Everett Sloane, and Welles; and "Gilda" (†).

June 19: "The Homecoming" (†) and "The Last Tycoon" (†).

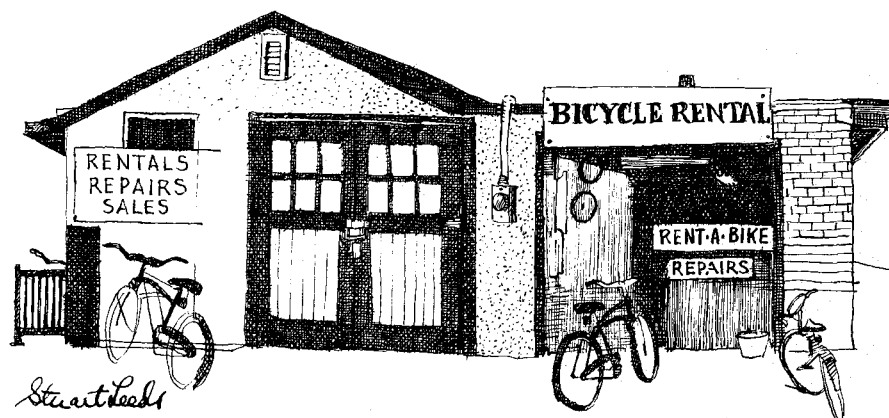
June 20-21: "Wuthering Heights" (1939 †) and "Jane Eyre" (†).

FILM LIBRARIES, ETC.

MUSEUM OF MODERN ART, Roy and Niuta Titus Theatres, 11 W. 53rd St. (708-9490); a limited number of tickets are available to those applying for them in person at the museum after 11 on the day of the showing.)

THEATRE 1: June 12 at 2:30 and 6: "I Was Born, But..." (1932; directed by Yasujiro Ozu; a Japanese silent film, with English intertitles)... June 13 at 2:30: "Divorce—Italian Style" (1961; Pietro Germi; in Italian, with English subtitles), with Marcello Mastroianni, Stefania Sandrelli, Daniela Rocca, and Leopoldo Trieste...

June 13 at 6: "Mañosa" (1962; Alberto Lattuada; in Italian, with English subtitles), with Alberto Sordi... June 14 at 2: "The Easy Life" (1962; Dino Risi; in Italian, with English subtitles), with Vittorio Gassman, Jean-Louis Trintignant, and Catherine Spaak... June 14 at 5: "Fifteen from Rome" (1963; Dino Risi; in Italian, with English subtitles), with Ugo Tognazzi and Vittorio Gassman... June 15 at 2: "Seduced and Abandoned" (1964; Pietro Germi; in Italian, with English sub-



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titles), with Stefania Sandrelli. . . ¶ June 15 at 5: "Divorce—Italian Style." . . . ¶ June 16 at 6: "The Ghost and Mrs. Muir" (1947; Joseph Mankiewicz), with Gene Tierney, Rex Harrison, George Sanders, Edna Best, and Natalie Wood. Mr. Mankiewicz will be present. . . ¶ June 17 at 2:30: "Mafioso." . . . ¶ June 17 at 6: "The Easy Life." . . . ¶ June 19 at 2:30 and 6: "White Threads of the Waterfall" (1933; Kenji Mizoguchi; a Japanese silent film, with English intertitles). . . ¶ June 20 at 2:30: "Fifteen from Rome." . . . ¶ June 20 at 6: "Una Giornata Decisiva" (1965; Dino Risi; in Italian, with English subtitles), with Nino Manfredi; and "Guglielmo il Dentone" (1964; Filippo D'Amico; in Italian, with English subtitles), with Alberto Sordi; and "Il Professore" (1964; Marco Ferreri; in Italian, with English subtitles), with Ugo Tognazzi. . . ¶ June 21 at 2: "The Visit" (1964; Antonio Pietrangeli; in Italian, with English subtitles), with Sandra Milo and François Périer. . . ¶ June 21 at 5: "Queen Bee" (1963; Marco Ferreri; in Italian, with English subtitles), with Ugo Tognazzi and Marina Vlady.

THEATRE 2: June 12 at 3 and 6:30: "Tears Fall Twice" (1985; Julia Robinson) and "Dance of Tears" (1984; Jean Daniel Bloesch), both documentaries. . . ¶ June 13 at 3: "The Third Man" (1950; Carol Reed), with Joseph Cotten, Alida Valli, Orson Welles, and Trevor Howard. . . ¶ June 13 at 6:30: "Never Fear" ("Young Lovers;" 1950; Ida Lupino), with Sally Forrest, Keefe Braselle, and Hugh O'Brian. . . ¶ June 14 at 2:30: "Caught" (1948; Max Ophüls), with Barbara Bel Geddes, Robert Ryan, and James Mason. . . ¶ June 14 at 5:30: "The Third Man." . . . ¶ June 15 at 2:30: "Scarface" (1932; Howard Hawks), with Paul Muni, Ann Dvorak, Karen Morley, and George Raft. . . ¶ June 15 at 5:30 and June 16 at 3: "Madame Bovary" (1933; Jean Renoir; in French, with English subtitles), with Valentine Tessier, Alice Tissot, Pierre Renoir, and Max Dearly. . . ¶ June 16 at 6:30 and June 17 at 3: "Félicie Nanteuil" (1942; Marc Allégret; in French, with English subtitles), with Micheline Presle, Claude Dauphin, and Louis Jourdan. . . ¶ June 17 at 6:30: "Scarface." . . . ¶ June 19 at 3 and 6:30: "Weirded Out and

Blown Away" (1985; Sharon Greytak) and "In the Company of Harry" (1985; Robert Gantz), both documentaries. . . ¶ June 20 at 3: "Portrait of Jennie" (1949; William Dieterle), with Jennifer Jones, Joseph Cotten, Ethel Barrymore, and Lillian Gish. . . ¶ June 20 at 6:30 and June 21 at 2:30: "Rebecca" (1940; Alfred Hitchcock), with Laurence Olivier, Joan Fontaine, and Judith Anderson. . . ¶ June 21 at 5:30: "Morocco" (1930; Josef von Sternberg), with Gary Cooper, Marlene Dietrich, and Adolphe Menjou.

WHITNEY MUSEUM, Madison Ave. at 75th St. (570-0537)—Through June 15: A retrospective of videotapes by Gary Hill: Program I, consisting of eight short works, showing Wednesday through Saturday at 12:30 and Sunday at 12:15 and 4:30. . . Program II, consisting of seven short works, showing Wednesday through Saturday at 2:30 and Sunday at 1:30. . . Program III, consisting of "Why Do Things Get in a Muddle? (Come on Petunia)" (1984) and "URA ARU (the backside exists)" (1985-86), showing Wednesday through Saturday at 11:45 and 3:45 and Sunday at 3. Closed Mondays.

IN BRIEF

SEE ABOVE FOR THEATRE ADDRESSES AND TELEPHONE NUMBERS.

IF A MOVIE HAS BEEN REVIEWED IN THESE PAGES DURING THE PAST TWO YEARS, THE DATE OF ITS REVIEW IS GIVEN.

ABSOLUTE BEGINNERS—Colin MacInnes's 1959 novel—an inventive, slangy, poetic celebration of youth and jazz and London, and a cry of disgust at the way teen-agers, who didn't emerge as a group with money to spend until the fifties, are already being commercialized and corrupted—has been turned into a stylized, widescreen musical by Julien Temple. Whether because of the fast-cutting style that Temple developed from his work in rock videos or because of the generally undistinguished choreography, it's peculiarly unlyrical and ephemeral. The film has a glossy immediacy, and you can feel the flash and determination that went into it. What you don't feel is the tormented romanticism that made English adolescents in the seventies swear by the novel the way American kids had earlier sworn by "The Catcher in the Rye." David Bowie, James Fox, Ray Davies, Anita Morris, and Sade provide entertaining moments; Lionel Blair, Bruce Payne, and Graham Fletcher-Cook come through with glints of humor. But the two central teen-age characters—Colin (Eddie O'Connell) and the girl he loves, Suzette (Patsy Kensit)—seem generic. Musical arrangements by Gil Evans. (Reviewed in our issue of 6/2/86.) (Waverly.)

BRAZIL—Terry Gilliam, of the Monty Python troupe, presents a retro-futurist fantasy—a melancholy, joke-ridden view of the horrorfulness of where we are now and the worse horrorfulness of where we're heading. The title refers to pop escapism of the past—what you can only dream about in the squalor and sporadic terrorist violence of an Anglo-American police state "somewhere in the twentieth century." Visually, it's an original, bravura piece of moviemaking. The central character (Jonathan Pryce) is a lowly clerk, a drone; in pursuit of the girl (Kim Greist) he has glimpsed in his dreams, he runs afoul of the state apparatus. The episodes lack dramatic definition, just as the gags do; they all run together and blur. Yet Gilliam's vision is an organic thing on the screen—and that's a considerable achievement. With Robert De Niro, Katherine Helmond, Michael Palin, Ian Holm, Ian Richardson, and Kathryn Pogson. The script is by Gilliam, Tom Stoppard, and Charles McKeown. (2/10/86) (8th St. Playhouse.)

THE COLOR PURPLE—The popular novel by Alice Walker is about the bonding of Southern black women in the first half of the century. It's written in a raw, cadenced dialect, and it has a joyous emotional swing to it. Steven Spielberg, who directed the movie version, appears to have taken the novel seriously—inspirational tone, pop-folk religiosity, triumph of the human spirit, and all—and been intimidated by it. This family saga, spanning more than thirty years, is the clumsiest, least confident feature he has done. He filters everything through movies and sees rural Georgia in 1909 the way a European director might. The picture is muffled—it seems to be taking place in a made-up, faraway kingdom. With Desreta Jackson

as the young Celie and Whoopi Goldberg taking over the role, Danny Glover, Willard Pugh, Margaret Avery, and Oprah Winfrey. (12/30/85) (Criterion Theatres.)

CRUISING (1980)—Al Pacino as an undercover cop in search of a psychopathic killer who preys on patrons of the heavy-leather homosexual bars of the West Village. The picture's persistent confusions of theme and plot encourage our ignorance and our prurient fear of these matters. Director William Friedkin's careless, trashy moral appears to be that homosexuality is catching and inescapably violent, which is a shocking message even for a thriller that is meant only to shock and to sell. With Paul Sorvino, Richard Cox, Don Scardino, and Karen Allen. (Thalia SoHo; June 18.)

DOWN AND OUT IN BEVERLY HILLS—Jokes you can't explain may be the best kind, and the director Paul Mazursky is a master of them. When he gets rolling here, you're not responding to single jokes—it's the whole gestalt of the movie that's funny. Nick Nolte plays the shaggy, smelly drifter who attempts suicide and is rescued by a self-made millionaire (Richard Dreyfuss). Taken into the millionaire's guest cabana, the bum is decked out in silk lounging robes; he's soon lord of the sunshine manor. As Dreyfuss's creamy-skinned, pampered wife, Bette Midler is more seductive than in her other screen roles, and she has a warped charm. Her eyes are pixillated; she's ready for anything. As a record-producer neighbor, Little Richard uses the maniacal energy that went into his singing; he has a bursting presence—you look at him and laugh. Peppy and pleasurable, this is one of the most sheerly beautiful comedies ever shot. With Elizabeth Peña, Tracy Nelson, Evan Richards, Donald F. Muhich, and Mazursky himself as a curly-haired accountant. (2/10/86) (Embassy. . . ¶ D. W. Griffith; through June 12.)

DREAMCHILD—Coral Browne plays Lewis Carroll's Alice in 1932, just before her eightieth birthday, when she sails to New York to speak at the Lewis Carroll centenary celebration. Disoriented by the voyage and exhilarated by New York City, she experiences a second childhood; her mind wanders back to 1862, when the young Reverend Charles Dodgson (Ian Holm) had attempted to entertain her and her sisters by spinning his nonsense tale. It's only now that the elderly Alice grasps how deeply tormented he was and that he loved her. And with New York jogging her out of her confining Victorian primness, she sees how narrow her life has been. Written by Dennis Potter and directed by Gavin Millar, the picture is a curio, but it's very enjoyable, and in some scenes it achieves levels of feeling that movies rarely get near. Nothing in Coral Browne's other screen performances suggests the frailty and beauty she brings to her Alice, and Ian Holm's performance is wonderful. With Amelia Shankley as Alice at ten, Jane Asher, Peter Gallagher, Nicola Cowper, and six Lewis Carroll—Tenniel crea-

tures from Jim Henson's Creature Shop. (10/21/85) (Little Theatre, Public Theatre.)

8 MILLION WAYS TO DIE—A macho fantasy about cops and robbers, coke and hookers. Jeff Bridges plays Scudder, a narcotics detective for the L.A. County Sheriff's Department, and the film, directed by Hal Ashby, has an overlush pictorial exoticism, as if being coked out comes with the territory. The film is permeated with druggy dissociation: plot points don't connect, as though they don't matter, the actors often sound as if they're making up their lines, and Ashby seems less interested in the thriller aspect of the material than in men in a semi-stupor challenging each other. With Rosanna Arquette, Alexandra Paul, Andy Garcia, and Randy Brooks. (5/19/86) (Criterion Theatres.)

ELENA ET LES HOMMES (1956)—Jean Renoir made this love-carnival film, set in France in the eighteen-eighties, in color and with an expensive international cast—Ingrid Bergman, Mel Ferrer, and Jean Marais. The first American audiences couldn't judge it properly, because it was released here in a botched, dubbed version called "Paris Does Strange Things;" Marais spoke in a gravelly baritone so far from his own voice that people laughed. Ferrer seemed weak even for Ferrer, and the picture had little besides Bergman's astonishing, ripe beauty to recommend it. The French version has considerably more, although it is far from a success. With Pierre Bertin, Elina Labourdette, Magali Noel, Jean Richard, and Juliette Greco. Cinematography by Claude Renoir; music by Joseph Kosma. In French. (Little Theatre, Public Theatre; through June 19.)

THE EXORCIST (1973)—The demonic possession of a child, treated with shallow seriousness. The picture is designed to scare people, and it does so by mechanical means: levitations, swivelling heads, vomit being spewed in people's faces. A viewer can become glumly anesthetized by the brackish color and the senseless ugliness of the conception. Neither the producer-writer, William Peter Blatty, nor the director, William Friedkin, shows any feeling for the little girl's helplessness and suffering, or for her mother's. It would be sheer insanity to take children. With Linda Blair, Ellen Burstyn, Max von Sydow, and Jason Miller. A huge box-office success. (Thalia SoHo; June 16.)

EXORCIST II: THE HERETIC (1977)—To be approached with a pair of tongs. Four years after the startling happenings in Georgetown of William Friedkin's first money-spinner, the little girl, Regan (played as before by Linda Blair, now heavier), is still not free of demonic possession. Richard Burton plays an improbably pagan priest. The demonism of the picture is meticulously inoffensive, as if meant to frighten as few people in the audience as possible. Directed by John Boorman. (Thalia SoHo; June 16.)

FOOL FOR LOVE—You'd think that if anybody could film Sam Shepard's 1983 play and keep it metaphorical and rowdy and sexually

GOINGS ON ABOUT TOWN

charged it would be the intuitive Robert Altman, but the material seems to congeal on the screen, and congealed rambunctiousness is not a pretty sight. The play—a carnal (and existential) screwball comedy—is about the no-exit tormented sex relationship between Eddie, a broken-down rodeo cowboy (Shepard), and his half sister, May (Kim Basinger), who lives in a cheap motel “on the edge of the Mojave Desert.” It’s counterculture macho gone mythic. As Eddie, Shepard is a feeble presence. Kim Basinger works hard and she has a flushed, smeary-faced, wounded quality, but she lacks spirit. With Randy Quaid and Harry Dean Stanton. (1/27/86) (Thalia; June 17.)

THE 400 BLOWS (1959)—François Truffaut’s eloquent first feature is a semi-autobiographical account of a twelve-year-old boy who—in the eyes of adults—becomes a delinquent. With Jean-Pierre L  aud. In French. (Film Forum; starting June 20.)

F/X—Robert Mandel directed this ingenious suspense film about a movie special-effects wizard (Bryan Brown) who lets himself be bamboozled by a couple of men from the Justice Department’s Witness Relocation Program; they hire him to stage the fake assassination of a Mafia boss (Jerry Orbach), so that this gangster can give evidence against his associates and be relocated without fear of reprisals. Bryan Brown underplays niftily, and he’s joined by a second hero—swaggering Brian Dennehy, as a rogue cop. He grabs the movie in his choppers and shakes it up. Despite the film’s high body count, it’s not the kind of thriller that leaves a viewer feeling debauched. With Diane Venora, Joe Grifasi, and Jossie deGuzman. (2/24/86) (Quad Cinema.... 86th St. East, and Cinema 3; through June 12.... Criterion Theatres; starting June 13.)

GILDA (1946)—The story is turgid, melodramatic nonsense, but Rita Hayworth is at her most sexy-masochistic, and does a knockout of a fully dressed striptease as she sings “Put the Blame on Mame” (and it’s Anita Ellis’s voice we hear). With Glenn Ford and George Macready. Directed by Charles Vidor. (Theatre 80 St. Marks; June 18.)

HANNAH AND HER SISTERS—A minor, agreeably skillful movie by Woody Allen. It’s likable, but you wish there were more to like. The principal characters are members of a show-business family, with the stable, dependable Hannah (Mia Farrow), a successful actress who manages a career and children with equal serenity, as the pivotal figure, and Barbara Hershey and Dianne Wiest as her sisters. Hannah’s parents are played by Maureen O’Sullivan and the late Lloyd Nolan, her financial-consultant husband by Michael Caine, and her TV writer-producer ex-husband by Allen himself. The picture would be lifeless without him; the other roles are so thin that there’s nobody else to draw us into the story, and all the vital vulgarity of Woody Allen’s early movies is gone. With Max von Sydow, Julie Kavner, Carrie Fisher, Daniel Stern, Sam Waterston, Tony Roberts (uncredited), and Bobby Short as himself. (2/24/86) (Beekman, Quad Cinema, and Criterion Theatres.... 57th St. Playhouse; through June 12.)

THE HOMECOMING (1973)—Harold Pinter’s mannered, floating ominousness has been used to tone up many movies (it was at its most effective in his script for “Accident”), but his own plays—“The Caretaker” and “The Birthday Party,” and “The Homecoming,” too—transfer to film badly. When this play is presented on the stage, the tensions bounce around, and one can respond to the actors’ relish in their roles, but on the screen the material is so lethally *set* that Pinter sounds Pinteresque. This movie comes across as corny-tricky and cheaply theatrical, with cryptic reversals of attitude and sudden outbreaks of violence and sex, plus a coronary and some unspecified sort of seizure. And the attitudes are cheap, too. Michael Jayston, smiling a tiny, tight smile, plays the philosophy professor who, accompanied by his wife, Ruth (Vivien Merchant), returns from America to visit his Cockney family; the role is none other than that old standby of middle-brow theatre—the prissy, unfeeling, vaguely impotent intellectual. Stoic Ruth, the one woman in this archetypal rancorous-family play, is mother-wife-whore, and, of course, is sphinxlike—the ultimate, controlling mystery

of life. The suggestiveness of the play remains, however, and so does some of its charge. In the movie, though, Pinter’s idiom, with its wit, sounds crisped—overcalibrated. With Paul Rogers as the domineering butcher father, Cyril Cusack as the weak uncle, Ian Holm as the satanic pimp son, and Terence Rigby as the thickheaded son; they are all playing so high that they cancel out one another’s performances. Directed by Peter Hall; cinematography by David Watkin; music by Thelonious Monk. Produced by Eli Landau, for American Film Theatre. (Theatre 80 St. Marks; June 19.)

JANE EYRE (1944)—Perfectly respectable version, directed by Robert Stevenson, with Aldous Huxley adding his own pungency to Charlotte Bront  ’s novel. Orson Welles looms in a cast that includes Joan Fontaine and a very young Elizabeth Taylor. (Regency; June 12-14.... Theatre 80 St. Marks; June 20-21.)

JO JO DANCER, YOUR LIFE IS CALLING—Richard Pryor produced, directed, and is the star of this semi-autobiographical movie, which opens with Jo Jo the cokehead comedy star preparing to free-base and bursting into flame. Then, as he lies swathed in bandages in the burn ward, he thinks back over how he got there. But Pryor doesn’t have the skills to tell his story in this form. As a standup entertainer, he sees the crazy side of his sorrows; he transforms pain and chaos into comedy. As a moviemaker, he’s a novice presenting us with clumps of unformed experience. It isn’t even raw; the juice has been drained away. With E’lon Cox, Carmen McRae, and Diahnne Abbott. (5/5/86) (R.K.O. Century National Twin.... Manhattan, R.K.O. Art Greenwich Twin, and Olympia Quad; through June 12.)

KRAMER VS. KRAMER (1979)—This emotional, limited, and painfully focussed drama, based on a novel by Avery Corman, was written and directed by Robert Benton, who was a co-author of “Bonnie and Clyde” and later the author and director of “The Late Show.” It centers on a divorce and a child-custody court case, but its deeper search is into the mores of rising young families on the upper East Side of New York, whose anxious lives have never been examined with such a scrupulous and certifying attention to background and detail. Four remarkable extended performances—by Dustin Hoffman and Meryl Streep, as the unhappy couple; by Justin Henry, as their six-year-old son, who is suddenly left in his father’s care as the picture begins; and by Jane Alexander, as a sad, helpful neighbor—almost convince you that this is a masterpiece instead of a first-class tearjerker, but the highest praise must go to Mr. Benton, whose intelligence and restraint have turned this modest material into an almost perfect miniature. The photography, which is also of a high order, is by Nestor Almendros. (Cinema Village; June 15.)

THE LAST TYCOON (1976)—Harold Pinter adapted Fitzgerald’s unfinished novel about Hollywood, and Elia Kazan directed the picture, which stars Robert De Niro as the artist-businessman Monroe Stahr. The result is so enervated that it’s like a vampire movie after the vampires have left. De Niro gives an authentic interpretation of a New York-Jewish Hollywood intellectual giant of the thirties, but he might be acting under a blanket. Probably the first mistake was to approach the book cap in hand, and the next was to hire Pinter; the film needed a writer who would fill in what’s missing—Pinter’s art is the art of taking away. With Jack Nicholson, Robert Mitchum, Ingrid Boulting, Jeanne Moreau, Ray Milland, Donald Pleasence, Theresa Russell, Dana Andrews, and Tony Curtis—the only one who shows any vitality. (Theatre 80 St. Marks; June 19.)

MACBETH (1948)—Orson Welles’ outrageous but lively version, shot on a shoestring in twenty-three days. With Jeanette Nolan, Dan O’Herlihy, and Roddy McDowall. (Regency; June 15-16.)

MONA LISA—With Bob Hoskins, Cathy Tyson, and Michael Caine; directed by Neil Jordan. (Reviewed in this issue.) (Cinema I; starting June 13.)

MY BEAUTIFUL LAUNDRETTE—A startlingly fresh movie about life in South London among the surly white street gangs and the Pakistani immigrants. In the foreground is a love affair between a dark-eyed, softly handsome, al-



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most flowerlike Pakistani teen-ager, Omar (Gordon Warnecke), and a young blond street lout, Johnny (Daniel Day Lewis). They become partners when Omar persuades his slumlord uncle (Saeed Jaffrey) to let him have a ratty-looking failed laundrette, and the two boys, using stolen money, turn it into the laundrette of their flashy dreams. Directed by Stephen Frears, from a witty script by the young playwright Hanif Kureishi, the film catches you up in the racketeering and decay of modern big-city life; you feel that your blinders have been taken off. It's an enormous pleasure to see a movie that's really about something, and that doesn't lay on any syrupy coating to make the subject go down easily. (It's down before you notice it.) The cast includes Shirley Anne Field, Roshan Seth, Rita Wolf, and Souad Faress. (3/10/86) (Embassy 72nd St.)

PEE-WEE'S BIG ADVENTURE—This slapstick novelty starring the grown-up yet prepubescent Pee-wee Herman—a Peter Pan of the shopping-mall era—is somewhere between a parody of kitsch and a celebration of it, and it has the bouncing-along inventiveness of a good cartoon. When Pee-wee's bike—the love of his life—is stolen, his search to recover it takes him from L.A. to Texas (to the Alamo) and back. Hitching rides, he encounters a series of American-movie archetypes, and the twenty-six-year-old director, Tim Burton, shows his flair for the silly-surreal. With Jan Hooks, Mark Holton, Judd Omen, Elizabeth Daily, Alice Nunn, and Diane Salinger. (11/4/85) (Thalia; June 19.)

RAN—Set in the sixteenth century, Kurosawa's epic spectacle, a variation on the theme of "King Lear," is static, but it deepens, and it has its own ornery splendor. For the first forty minutes or so, the picture is all preparation, and it seems dead, but then the preparation begins to pay off, and by the end the fastidiousness and the monumental scale of what Kurosawa has undertaken can flood you with admiration. With Mieko Harada, Tatsuya Nakadai, the Japanese transvestite pop star known as Peter, and Hisashi Ikawa. In Japanese. (Two hours and forty-one minutes.) (1/13/86) (Cinema Studio.)

A ROOM WITH A VIEW—Adapted from the early novel by E. M. Forster, this is a whimsical social comedy about a muddled young English girl (Helena Bonham-Carter) who desires yet fears sexual love; she runs away from the man (Julian Sands) who stirs her emotions, and becomes engaged to a rich twit (Daniel Day Lewis). Bonham-Carter lacks the carriage and presence of a trained actress, and Sands is playing Forster's flimsy—almost abstract—dream of a natural, uninhibited lover, and is rather vague. But the movie is well paced, and it never loses its hold on a viewer's affections, because it's so thoroughly inhabited. With Denholm Elliott, Maggie Smith, Judi Dench, Simon Callow, and Rosemary Leach. The movie is more than a little precious, but it's a piece of charming foolishness. It was directed by James Ivory, from a script by Ruth Praver Jhabvala that pares down the text skillfully and takes much of its lively, dizzy dialogue directly from Forster. (3/24/86) (Paris.)

SHOOT THE PIANO PLAYER (1960)—This François Truffaut film busts out all over—and that's what's wonderful about it. Comedy, pathos, and tragedy are all scrambled up. Each time Charlie, the sad-faced little piano player (Charles Aznavour), has cared about someone he has suffered, and now he just wants to be

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"out of it." This is a comedy about melancholia—perhaps the only comedy about melancholia. Truffaut is freely inventive here—a young director willing to try almost anything—and Charlie's encounters with the world are filled with good and bad jokes, bits from old Sacha Guitry films, and homage to the American Grade-B gangster films of the forties and fifties. Nothing is clear-cut; the ironies crisscross and bounce. With Nicole Berger, Marie Dubois, Albert Rémy, Michèle Mercier, and Daniel Boulanger. In French. (Film Forum; starting June 20.)

SWEET LIBERTY—Alan Alda is the writer, the director, and the star of this satirical comedy about moviemaking. He plays a history professor whose Pulitzer Prize-winning book on the American Revolution is to be filmed during the summer in the area where the events he wrote about took place—in and around the fictional college town of Sayeville, North Carolina, where he teaches. Alda's conception of this professor—as smug and insecure but basically a representative of solid, enduring values—casts a pall over the proceedings; still, if you don't expect too much and just ride along with the movie's conventionality there are enough enjoyable scenes to put you in a good mood. The fun comes from the Hollywood contingent of show folk who invade the community: Michael Caine as the skirt-chaser star, Michelle Pfeiffer as the leading lady who believes in staying "in character" as fully as possible, Bob Hoskins as the vulgarian screenwriter, and Saul Rubinek as the wily director. And it comes from Lois Chiles as the college president's wife—the star's first local conquest. Also with Lise Hilboldt and Lillian Gish. Cinematography by Frank Tidy; the film was shot on Long Island, around Sag Harbor and Southampton. (6/2/86) (Loews Tower East, and Loews State. . . R.K.O. Art Greenwich Twin; through June 12.)

TOP GUN—With Tom Cruise and Kelly McGillis, directed by Tony Scott. (Reviewed in this issue.) (Loews 34th Street Showplace, Loews Orpheum, Loews 84th Street Sixplex, and Loews Astor Plaza.)

THE TRIP TO BOUNTIFUL—Geraldine Page gives a controlled, all-out performance as Carrie Watts, an old-age pensioner who wears seat-sprung housedresses and lives in a tiny apartment in Houston with her sad, defeated son and his shrill wife, who keeps picking on her. The movie—a weeper—is about Carrie's longing to escape and return to Bountiful, the Gulf Coast town where she grew up; she runs away, gets on a bus headed in the right direction, and lives out her dream. Directed by Peter Masterson, from Horton Foote's adaptation of his 1953 teleplay, it's a "spiritual" picture—a tribute to the decency of the common people who endure by doing the best they can. The camera is meant to be the mirror of Carrie's soul, but we look in that mirror for so long that finally all we see is Geraldine Page acting. The movie is intended to be a hymn, but all Foote and Masterson can do is give some of the characters a limp, anesthetized grace. With John Heard, Carlin Glynn,

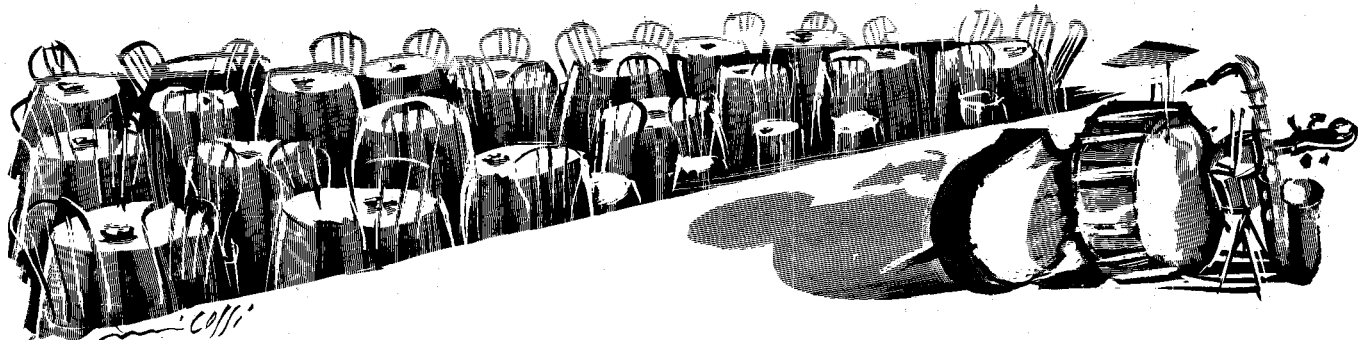
Rebecca DeMornay, and Richard Bradford. (1/13/86) (Lincoln Plaza.)

AN UNMARRIED WOMAN (1978)—Paul Mazursky wrote and directed this buoyant, enormously friendly comedy about Erica (Jill Clayburgh) and her attempt to get back into "the stream of life" after her marriage of sixteen years breaks up. It's a tenderhearted feminist picture. What may be disappointing to those who love Mazursky's earlier work is that in trying to identify with Erica and tell the story from a woman's point of view he shies away from having her look foolish; in crucial parts he suppresses his sense of satire, and the picture becomes virtuous. With Michael Murphy, Lisa Lucas, Pat Quinn, Kelly Bishop, Linda Miller, Cliff Gorman, Mazursky himself as Hal, and Alan Bates, whose fine comic, expansive performance as Saul Kaplan, a famous painter, overpowers the movie. Saul is such a rich, loamy Father Earth figure that when Erica resists him in order to satisfy her yearnings for independence she seems puny and a bit of an idiot. (Cinema Village; June 15.)

VAGABOND—Agnès Varda wrote and directed this scrupulously hardheaded film about an eighteen-year-old girl on the road, a deliberately homeless drifter who lives on handouts, thefts, a little prostitution, and the occasional odd job. At the opening, her frozen body is discovered in a ditch in the countryside. Varda presents the movie as a documentary investigating how this happened. The characters are the sullen, suspicious, vacant-eyed young girl (played immaculately by Sandrine Bonnaire) and the witnesses to her last weeks. The purity and boldness of Varda's approach may call Robert Bresson to mind, but we see the closed-off girl strictly from the outside, and this factual, objective view isn't enough. With Macha Méril. In French. (5/19/86) (Lincoln Plaza.)

WETHERBY—It's about a younger generation whose souls are bombed out, and a middle-aged middle class that's spiritually desiccated, but David Hare, who wrote and directed this English film, devised a who-is-to-blame mystery structure for his morality tale, and the interlocking flashbacks that he toys with are ingeniously worked out. A sallow, dead-eyed university graduate student (Tim McInnerny) comes to the Yorkshire village of Wetherby, crashes a dinner party given by an emotionally repressed secondary-school English teacher (Vanessa Redgrave), and the next day returns to her cottage to blow out his brains right in front of her, in her kitchen. The only real mystery is the radiant starshine that Redgrave gives off; she saves the movie from being a totally arid puzzle. With Suzanna Hamilton, Ian Holm, Judi Dench, Stuart Wilson, and Redgrave's daughter Joey Richardson, who plays the teacher as a young woman in love. (10/7/85) (Thalia; June 15.)

WUTHERING HEIGHTS (1939)—Laurence Olivier has said that in this film the director, William Wyler, taught him how to act on the screen, and there's no doubt that as Heathcliff he shows new passion and power. Unfortunately, Merle Oberon's Cathy—though exquisite—lacks the complementary passion; she's a bit chill and dainty. But it's a beautifully made gothic-romantic classic, with many memorable scenes. The cast includes Flora Robson, David Niven, Geraldine Fitzgerald, Donald Crisp, Hugh Williams, Leo G. Carroll, Miles Mander, and Cecil Kellaway. (Theatre 80 St. Marks; June 20-21.)





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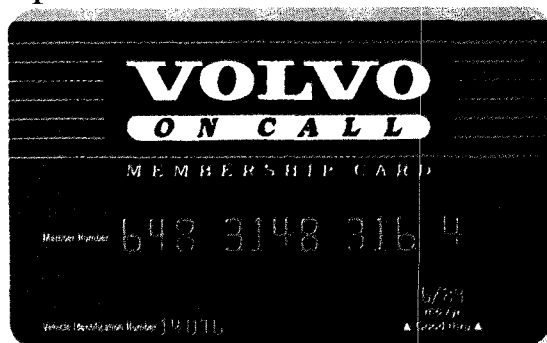
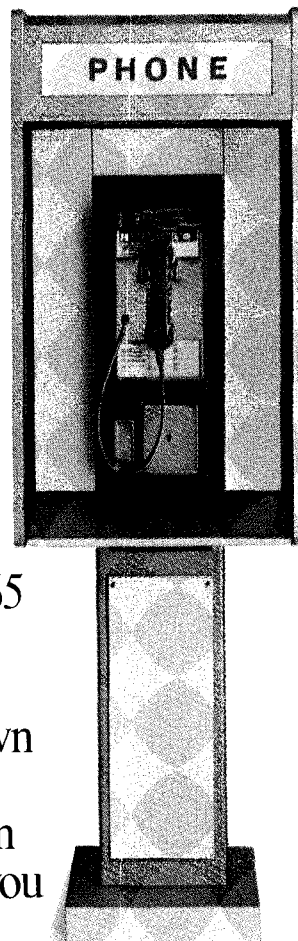
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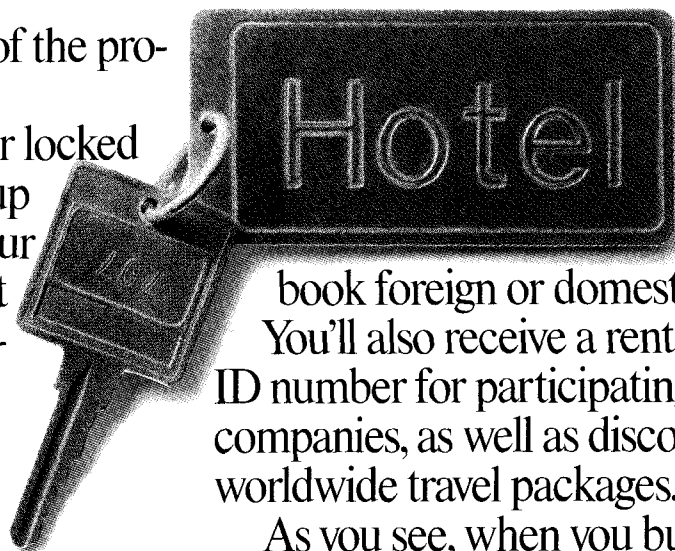


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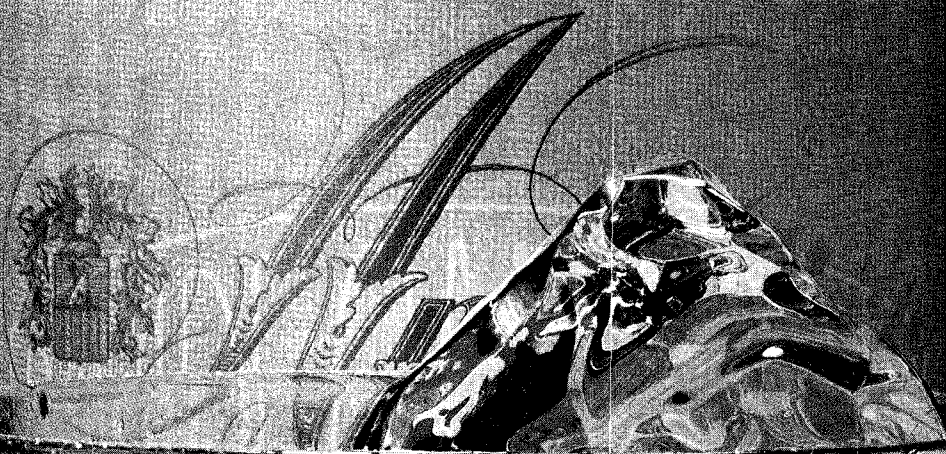
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THE TALK OF THE TOWN

Notes and Comment

THE *Times* recently carried a story from Birmingham, Alabama, about the razing of the jail where authorities stowed the Reverend Dr. Martin Luther King, Jr., in 1963 for parading without a permit. His stay (like Thoreau's term in the Concord pen) resulted in a magical essay—"Letter from Birmingham Jail." Before the building came down, therefore, the city fathers removed King's cell and stored it in an old Coca-Cola bottling plant pending the possible construction of a civil-rights museum. A policeman who was on the force at the time of King's incarceration (presumably not the officer who refused to serve him dinner because he wanted to sing his grace) contends that the real cell went down before the wrecker's ball, and that the city mistakenly preserved a room used by kitchen crews. (*He* had suggested that the entire jail be preserved, perhaps as a doll museum.) King wrote, "You will never know the meaning of utter darkness until you have lain in such a dungeon," but surely he didn't mean it literally—surely he was describing more the level of enlightenment of his captors than the level of the lighting above his bunk. So it doesn't make much difference what, if anything, is preserved; in fact, that which is preserved is too often, in the act of preservation, robbed of its meaning. It becomes a butterfly pinned inside a display case labelled "history," inaccessible except as a faded reminder of the glory a butterfly actually is. Dr. King was extensively honored this past winter, on the first federal holiday marking his birth—speeches were spoken, parades were marched. And yet, as some pointed out, the Dr. King remembered was not the actual Dr. King, who had lived in a certain place and time and done certain illegal and

disruptive and useful things. That Dr. King, at his death, was under fire not only from segregationists but from some of his fellows in the civil-rights movement, who worried that what he was then doing would complicate matters. That Dr. King was voicing opposition to the war in Vietnam. That Dr. King was leading poor people in a march on Washington. That Dr. King was speaking less about voter registration and more about uncomfortable ideas like what he perceived as the folly of materialism. That Dr. King, more than anything else, was trying to figure out ways to extend his successful tactic of nonviolent civil disobedience into new and even more difficult battles—battles in which the enemy was not as obvious and crude as it had been in Birmingham. And that Dr. King, who was a set of ideas as much as a man, has been lost.

How do ideas get lost? The twentieth century has seen lots of new political ideas, most of them bad. Among the good ideas, none appear more significant than the nonviolence of Gandhi and Dr. King. Both men experimented with nonviolence—"experimented" is the important word, for neither knew with any precision what would work and what would fail. Their efforts developed a few methods, and efforts by those around them added a few more. Twenty-five years ago last month, for instance, thirteen black and white Freedom Riders left Washington on public buses headed south. They were beaten up in Rock Hill, South Carolina. In Anniston, Alabama, one of their buses was burned. In Birmingham, the police

left them at the mercy of a mob. It is, of course, a story of courage (especially the courage to do the same brave thing two and three times running). But it is also a story of tactical innovation. Gandhi had walked to the sea. Dr. King had asked people to *stay off* buses. Now these thirteen people had figured out a new method of dramatizing a particular evil, and they had gone ahead and got their heads bashed, and eventually they had won.

Such innovation ceased in this country with the close of that short phase of the civil-rights movement (ceased in large part because Dr. King was shot). The world is full of conflicts that might be helped by some thoughtful extension of the ideas developed then, and yet too often those ideas are regarded as curiosities, antiquities. They are no longer in the air, and not because they've been tried and rejected. They've simply been rejected. They work only with the British Empire or in a place such as America, where the people have consciences—that is one thing people say quite often. And perhaps it is true—those are the situations in which the ideas have so far been most effective. However, Cain was the first to kill and he chose Abel as his victim, but that hasn't stopped us from figuring out ways to expand murder past the bounds of fratricide.

Two months after the fact, it seems possible that the enormous application of air power designed to teach the Libyans a lesson didn't do much good: there have been a number of terrorist incidents since, and several true bloodbaths have been just barely averted. But the failures of violence have never been counted against it: if it doesn't work, try it again, only harder this time. Perhaps there is no way to apply the bandages of King and Gandhi to the wound that is the Middle East, and perhaps their ideas would not work



to fight off (as one researcher, Gene Sharp, of Harvard, has suggested they might) a Soviet invasion of Europe, and perhaps, Lech Walesa's experience notwithstanding, they have nothing further to teach people in Warsaw. But perhaps they do. We don't have any particularly bright applications in mind, but then we didn't think up the Freedom Rides, either. The ideas themselves remain young and green.

Low Pressure

WE dropped in the other day on the third North American Small Boat Show, which was tucked unobtrusively into a Newport, Rhode Island, marina. Although three years have passed since the Australians made off with the America's Cup, Newport's collective eye remains focussed on that distant grail, and the day we were in town the America II syndicate was staging a tasteful pep rally under the guise of christening its latest Twelve-Metre, US-46; the streets were awash with men in blue blazers and women sparkling with syndicate jewelry. At the Small Boat Show, however, only one of ninety-odd exhibits—that of a maker of souvenir polo shirts—even alluded to the Cup. And the atmosphere was not only uncompetitive but mostly uncommercial—an unheard-of thing for a modern boat show. There were, to be sure, a few exceptions, such as a fast-talking man who was hawking ersatz-chamois cleaning cloths to an unresponsive audience, and two brisk Chris-Craft salesmen who were clearly aching to wheel and deal. Still, for the most part the show had an almost somnambulistic feel, as if the participants as well as the visitors had been stunned by the sheer variety of boats on display. We noted, among other exotica, the following: two pedal-propelled craft, one of them a catamaran whose designer may have been influenced by the long-legged water striders that skitter across the surfaces of ponds, the other an eggshell-shaped contrivance that darted here and there at surprising speed; a minuscule hovercraft, which travels noisily on a column of air emitted by itself; not one but two steam-powered launches (neither, alas, in the water), one of them with a genuine old-fashioned firebox, the other with a boiler that was heated by bottled gas, from a tank sneakily concealed beneath the foredeck; a fibre-glass proa, which

was a sophisticated variation on a South Pacific theme, with the boat's single mast mounted on the larger of two asymmetrical hulls; and a twenty-four-foot English sloop of fibre-glass construction and resolutely archaic appearance, sporting not only a six-foot-long bowsprit but also a jack-yard topsail (a light-weather sail that can be set, with difficulty, between the main gaff and the mast).

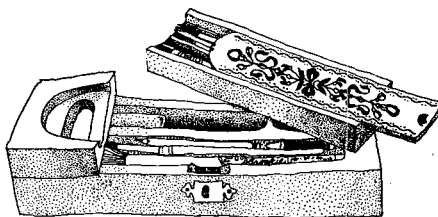
There were also a considerable number of plain-vanilla boats—outboard-driven fishing craft, small sailboats, even a sprinkling of cruisers—but we could not escape the thought that they had been laid on as a sort of backdrop for the more unusual little vessels, of the kind that are usually relegated to the least desirable corners of more orthodox shows. Only an environment in which boat sales are secondary, or perhaps incidental, can afford to give pride of place to something as elegant as the Delaware Strip Canoe, which is built from narrow strips of contrasting light and dark wood, laid edge to edge and finished to a high gleam, or as imaginative as the Dovekie sailing cruiser, a twenty-two-footer, with leeboards, that can float in four inches of water.

Perhaps the most visible craft were those propelled by oars, sculls, or paddles, but it was nearly impossible to be sure just how many of them there were in the show, since few were in their assigned slips at any given moment. One of the event's unusual attractions is that its floating exhibits, instead of being lashed into berths, are available to the customers for test rides, so it was possible to get out into the harbor aboard needlelike rowing shells, modern versions of traditional workboats, outboard-powered inflatables, and small sailboats. Few, if any, qualifications were required, and some contretemps were predictable. For example, a sloop found herself pinned down at the leeward end of a narrow channel between floating exhibits, from which only a radical change in wind direction or a suspension of the laws of physics would have permitted her to sail out, but her two-man crew kept trying, and notched up an impressive series of slow-speed collisions in

consequence. Although everyone was very understanding about it, we decided that a somewhat less demanding vessel might be better suited to us, and ventured aboard a traditionally built wooden skiff, whose proprietor was as friendly as could be but quite innocent of sales literature about his boat. We pulled out into the harbor, gaining confidence at every stroke, and nearly rammed a racing shell that was heading back to the piers; her skipper's knowing smile was enough to send us scurrying to safety. Just as we were disembarking, heads all around us swivelled in unison: the new US-46 was gliding majestically by under tow. For a silent moment or two, her crew—large, blue-blazered young men—regarded the small-boat folk and were regarded by them in turn. Then she was past and gone, like a visitor from space, and the spell was broken.

Enk, Enk, Enk!

MOST people feel uncomfortable at the prospect of any death, let alone the extinction of an entire species—something, of course, that might happen any day to the human race. Consequently, most people are apt to feel elated—rerieved, even—when a species that was long thought dead turns out to be alive. This has just happened with the ivory-billed woodpecker, that now almost legendary bird painted by Audubon and others—a stylish black-and-white creature with a graceful curved neck. The male is shown with a high, pointed red crest, the female with a black one, and both sexes—in maturity, about twenty inches long and weighing about a pound—with the long cream-colored bill for which the species is named. There are, or were, two subspecies, the North American and the Cuban. They are practically the same bird—the only difference is that a thin white line on the face of both extends a little farther toward the bill on the Cuban subspecies. What has all but extinguished both subspecies is, primarily, the destruction by man of the trees on which they fed—old-growth pine trees, cypress trees, and bottomland hardwood trees. The last generally accepted sightings of the North American bird, which lived in swampy areas of the southeastern United States, were in the early nineteen-fifties, and it will be declared extinct in six more years unless American ornithologists, who are mounting a major search, find it



first. The Cuban bird, whose range once included most of Cuba but has diminished to remote uplands in Guantánamo Province, some five hundred miles east of Havana, had last been seen by an ornithologist in the nineteen-seventies. There had subsequently been unconfirmed sightings of it, mostly by woodsmen in the area, but it wasn't until a year ago that the Cuban government tried to confirm the reports. It invited Dr. Lester L. Short, the chairman of the Department of Ornithology of the American Museum of Natural History, to help; a woodpecker expert, he is the author of "Woodpeckers of the World," a book published in 1982, and is the chairman of the Woodpecker Group of the International Council for Bird Preservation. The searchers didn't see any ivorybills. Dr. Short, before he left, gave Cuban biologists a plan for further searching. There continued to be unconfirmed reports of sightings by woodsmen. Then, on March 16th, two Cuban biologists caught a fleeting glimpse of a female ivorybill. A few weeks later, Dr. Short rejoined the Cubans, bringing with him his wife, Jennifer Horne, who is an ornithologist and a research associate of the National Museums of Kenya, and Dr. George B. Reynard, a bioacoustician specializing in wildlife sounds, who is a field affiliate of the Cornell University Laboratory of Ornithology and had for several years been on the trail of ivorybills in Cuba. In the next two weeks, the assembled ornithologists and biologists—there were eight all told, representing six institutions in Cuba, the United States, and Kenya—saw ivorybills eight or nine times (depending on how one defines a sighting) for a total of seventy seconds.

The other day, we visited Dr. Short in his office at the American Museum. He is a trim-looking man in his early fifties, with straight dark-brown hair and a graying beard. He pulled out a worn blue notebook in which he had recorded the sightings, and, glancing



BOOTH

"There is a Mr. Hayer at the front door with four hundred and twenty-seven legitimate ways to beat the system."

at it occasionally, said, "We flew to eastern Cuba on April 2nd and were picked up by a truck. We headed into the mountain forests. We drove through much of the night, and finally arrived at a loggers' camp, where our group was staying. The next morning, the woods seemed a terribly unlikely place for woodpeckers, yet there, in the middle of the camp, we found a stump with recent workings—signs that ivorybills had been feeding. The holes, which the woodpeckers drill in their search for beetle larvae, are unmistakable—deep, rectangular or oval, up to an inch wide and running three or four inches down the bark. You can tell they are recent if the wood is reddish-brown; it turns gray within a year. Ivorybills are the only Cuban woodpeckers that drill deep into dead or living trees, and their bills are much stronger than other woodpeckers'. All woodpeckers—there are a hundred and ninety-eight species—are specialists in their ability to feed on trees, but the ivorybills, Dr. Short said, are specialists among specialists, and are therefore the peak of an evolutionary group. That is one of the reasons he feels finding them is so important. Altogether, he said, they are a high-profile bird, whose rediscovery could give a boost to the entire conservation movement.

"We thought we would see if we

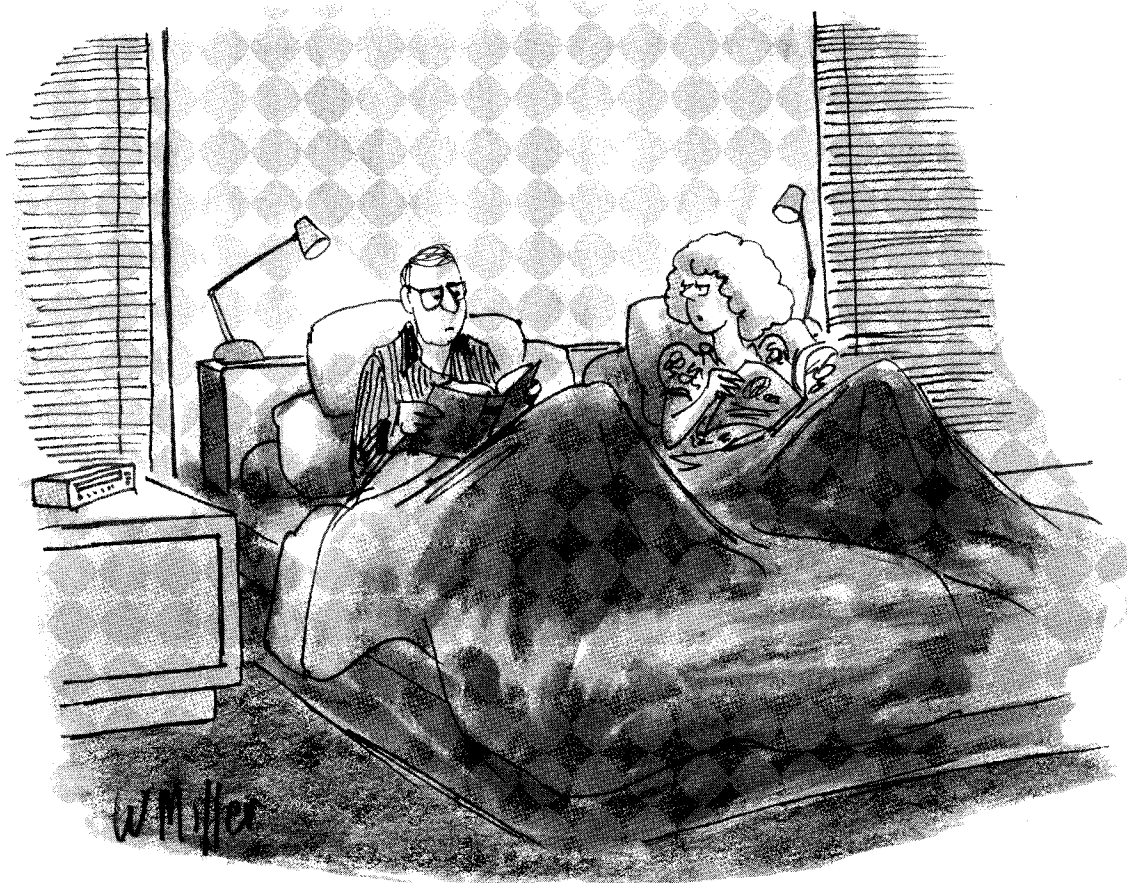
could attract them," he went on. "Reynard, our bioacoustician, had brought with him from Cornell some old recordings of North American ivorybills." Dr. Short imitated the call—a harsh, nasal "Enk, enk, enk," a little like the honk of a goose. "We had been warned that it might scare the ivorybills, and possibly that happened, for when we played the tape none showed up. Then we beat on trees." Dr. Short stood up and beat on a bookcase: *Thump! Thump!* "Thumping may be a territorial signal for them, and we thought we might attract a male ivorybill to investigate. But no."

The first of the assembled ornithologists to see the birds was Ms. Horne, on April 6th. Dr. Short pointed out a picture of his wife on a bulletin board behind him, showing a lithe, tanned woman with long black hair. "She had the best view of all," Dr. Short continued. "She described the bird as 'a big black-and-white woodpecker with an ivory bill and white wing patches.' For twenty-five seconds, she watched the bird—a male—stripping bark. This was conclusive evidence that the holes and strippings we had been seeing in the trees were the workings of ivorybills. The next day, April 7th, three of the Cuban biologists saw two ivorybills at one time; they flew

would wash my car free if I would pledge to donate between five and twenty-five cents per car washed. They hoped, he confided earnestly, that as many as a hundred cars might turn up. "What the hell?" I said to myself, and endorsed a simple but binding agreement to turn over a dime for every car the kids washed. Then I closed the door and thought no more about it.

The appointed Sunday dawned clear and warm—the kind of spring day that inspires many suburbanites to wash their cars, and others, like me, to have someone else do it. My teen-age son (he is not a soccer player) and I took our free-car-wash ticket, leaped into the Plymouth, and zoomed off down the Post Road to the parking lot of Ed Mitchell's, a well-known clothing store, where the car wash was to take place. The minute I saw a big sign reading "ENTER HERE," with a Westport police officer standing by it, I had a feeling that it was going to be an expensive morning. A smiling woman, presumably a Striker mother, took my ticket and offered us a balloon, which we declined, and a four-page brochure, "to read while you're waiting." We were directed to a sort of holding pattern, which already had half a dozen cars in it. From the parking lot ahead came the squeal and thump of rock music and the cries of teen-agers. Leafing through the brochure, I discovered that the Strikers—one of approximately twenty travel teams in the Westport Soccer Association—consisted of nineteen twelve- and thirteen-year-old boys, and that the team had a 4-1-0 record for the season and a cumulative record over the previous eight seasons of 53-2-4. Clearly, it was time for these kids to seek a wider horizon, such as the two-week invasion of England, Holland, and Germany that my dimes were helping to finance.

A middle-aged man I thought I recognized from the train platform popped up in front of me, motioning



"I, for one, don't see how Herman Melville relates to our life style."

my little Plymouth toward one of five "wash stations" with grandiloquent gestures that brought to mind films of aircraft-carrier flight decks. In an instant, the car was surrounded by half a dozen kids and a couple of fathers, brandishing hoses, brushes, squeegees, and sponges. The car was attacked with an élan and, one might say, a concentrated ferocity that revealed two unsuspected leaks and fully explained the cleaners' nine-year 57-3-4 record. My son and I cowered in the front seat as manic faces appeared and disappeared through rainbows of soapy water, and, in the background, the rock music boomed away. "It's a live disk jockey," my son observed, squinting out through the water-streaked window. "That's how you know we're in Westport."

At last, as the kids turned to hosing each other instead of the car, it became clear that the ordeal was over. At the far side of the lot, next to a sign that read "EXIT," another smiling Striker mother stood tallying the clean cars as they left. Well might she smile: we were No. 92, and it was only ten-thirty. What, I wondered, might these people accomplish by

five o'clock, the official closing time?

The awful (or wonderful, depending on your point of view) total was announced a few days later: five hundred and thirty-eight cars—seventy-two an hour, or slightly more than one a minute for a seven-and-a-half-hour stretch. From the Strikers' point of view, it was a triumph that was turned bittersweet by their parents' decision to postpone the overseas trip, because of what the team's coach, David Janke, referred to as "the potential for terrorism." When I talked to Mr. Janke, a man whose enthusiasm fairly melts the telephone wires, he assured me that the team's voyage was merely delayed, and that the young players would indeed have what he called "a combined soccer and cultural experience" abroad. To judge from my own admittedly brief and soap-streaked view of the Strikers, they are the kind of ambassadors any nation would be proud of, fully capable of providing a cultural (never mind soccer) experience to any nation they visit. And if they're short of travelling money the car-wash industry in New England would probably be happy to subsidize their trip.



"At the market this morning, I bought a fresh melon. I ran into Sarah on the way home, and she said, 'What a great melon!' I put it on the kitchen windowsill, and when Bob came in he said, 'Gee, honey, that sure is a beautiful melon,' and he gave me a great big kiss. Then we sat down to have a drink and watch a little TV before dinner. All of a sudden, this commercial came on showing a housewife buying a melon. A friend stops her and says, 'Wow! What a melon!' Then her husband comes home, gives her a big kiss, and says, 'Some melon, honey!' At that point, I ran into the kitchen and burst into tears."

BLUEBEARD

"NEVER open that door," Bluebeard told me, and I, who knew his history, nodded. In truth I had a very good idea of what lay on the other side of the door and no interest at all in opening it. Bluebeard was then in his forty-fifth year, quite vigorous, the malaise that later claimed him—indeed enfeebled him—not yet in evidence. When he had first attempted to put forward his suit, my father, who knew him slightly (they were both clients of Dreyer, the American art dealer), refused him admittance, saying only, "Not, I think, a good idea." Bluebeard sent my father a small Poussin watercolor, a study for the "Death of Phocion;" me he sent, with astonishing boldness, a black satin remarque nightgown.

Events progressed. My father could not bring himself to part with the Poussin, and in very short order Bluebeard was a fixture in our sitting room, never without some lavish gift—a pair of gold cruets attributed to Cellini, a cut-pile Aubusson fire-extinguisher cover. I admit I found him very attractive despite his age and his nose, the latter a black rocklike object threaded with veins of silver, a feature I had never before seen adorning a human countenance. The sheer energy of the man carried all before it, and he was as well most thoughtful. "The history of architecture is the history of the struggle for light," he said one day. I have latterly seen this remark attributed to the Swiss Le Corbusier, but it was first uttered, to my certain knowledge, in our sitting room, Bluebeard paging through a volume of Palladio. In fine, I was taken; I became his seventh wife.

"Have you tried to open the door?" he asked me, in the twelfth month of our (to that point) happy marriage. I told him I had not, that I was not at all curious by nature and was furthermore obedient to the valid proscriptions my husband might choose to impose vis-à-vis the governance of the household. This seemed to irritate him. "I'll know, you know," he said. "If you

try." The silver threads in his black nose pulsated, light from the chandelier bouncing from them. He had at that time a project in view, a project with which I was fully in sympathy: the restoration of the south wing of the castle, bastardized in the eighteenth century by busybodies who had overlaid its Georgian pristinity with Baroque rickrack in the manner of Vanbrugh and Hawksmoor. Striding here and there in his big India-rubber boots, cursing the trembling masons on the scaffolding and the sweating carpenters on the ground, he was all in all a fine figure of a man—a thing I have never forgotten.

I spent my days poring over motor-car catalogues (the year was 1910). Karl Benz and Gottlieb Daimler had produced machines capable of great speed and dash and I longed to have one, just a little one, but could not bring myself to ask my husband (my ever-generous husband) for so considerable a gift. Where did I want to go, my husband would ask, and I would be forced to admit that *going somewhere* was a conception alien to our rich, full life at the castle, only forty kilometres from Paris, to which I was allowed regular visits. My husband's views on marriage—old-fashioned if you will—were not such as to encourage promiscuous wanting. If I could have presented the Daimler phaeton as a toy, something to tootle about the grounds in, something that enabled

him to laugh at my inadequacies as a pilot of the machine (decimation of the rosebushes), then he might have, with a toss of his full, rich head of hair, acceded to my wish. But I was not that intelligent.

"Will you never attempt the door?" he asked one morning over coffee in the sunroom. He had just returned from a journey—he always returned suddenly, unexpectedly, a day or two before he had planned to do so—and had brought me a Buen Retiro white biscuit clock two metres high. I repeated what I had told him previously: that I had no interest in the door or what lay behind it, and that I would gladly return the silver key he had given me if his mind would be eased thereby. "No, no," he said, "keep the key, you must have the key." He thought for a moment. "You are a peculiar woman," he said. I did not know what he meant by this remark and I fear I did not take it kindly, but I had no time to protest or plead my ordinariness, for he abruptly left the room, slamming the door behind him. I knew I had angered him in some way but I could not for the life of me understand precisely how I had erred. Did he *want* me to open the door? To discover, in the room behind the door, hanging on hooks, the beautifully dressed carcasses of my six predecessors? But what if, contrary to informed opinion, the beautifully dressed carcasses of my six predecessors were not behind the door? What was? At that moment I became curious, and at



Thinker Walking Among Pigeons

the same time, one part of my brain contesting another, I contrived to lose the key, in the vicinity of the gazebo.

I had trusted my husband to harbor behind the door nothing more than rotting flesh, but now that the worm of doubt had inched its way into my consciousness I was a different person, as it were. On my hands and knees on the brilliant green lawn behind the gazebo I searched for the key; looking up I saw, in a tower window, that great black nose, with its veins of silver, watching me. My hands moved nervously over the thick grass and only the thought of the three duplicate keys I had had made by the locksmith in the village, a M. Necker, consoled me. What was behind the door? Whenever I placed my hands on it the thick carved oak gave off a slight chill (although this may have been the result of an inflamed imagination). Exhausted, I gave up the search; Bluebeard now knew that I had lost something and could readily surmise what it was—advantage to me, in a sense. At dusk, from a tower window, I saw him trolling in the grass with a horseshoe magnet dangling from a string.

I had taken care that the duplicate keys manufactured for me by M. Necker had also been coated with silver, were in every way exact replicas of the original, and could with confidence present one on demand if my husband required it. But if he had been successful in finding the one I had lost but concealed that fact (and concealment was the very essence of his nature), and I presented one of the duplicates as the original when the original lay in his pocket, this would constitute proof that I had reproduced the key, a clear breach of trust. I could, of course, simply maintain that I had in fact lost it—this had the virtue of being true—meanwhile concealing from him the existence of the counterfeits. This seemed the better course.

He sat that night at the dining table slicing a goose with prune and foie-gras stuffing (taking the best portions for himself, I observed) and said without preamble, "Where do you meet your lover, Doroteo Arango?"

Doroteo Arango, the Mexican revolutionary leader known to the world as Pancho Villa, was indeed in Paris at that moment, raising funds for his sacred and just cause, but I had had little contact with him and was certainly not yet his lover although he had

WILD CARROT

More at home than most, this immigrant
volunteers a white roadside
hedge—and what handmade lace approaches
the sparing extravagance
of those kaleidoscopic forms etched
as on crystal? You'll see them,
snowcapped halves of globe (concave, sometimes,
like Chinese bowls), and flat disks
damasked solid, or, like buttermilk
sky, dispersed. . . . Yet all are marked
with blood-dark florets at center ruff—
King Charles' memento mori.

It has features in common
with most parsleys (*Umbelliferae*),
their intricate, fernlike leaves
and branching taproots, ringed like earthworms,
which, snapped off, smell pungent-sweet.
What's rarity—a matter of few
numbers? Or strange perfection?
At last, exhausted with the dog days,
the flowers close up into
tight "bird's nests," bowing to the seasons,
to earth—where perfection goes
when there is nothing left to perfect.

—ALFRED CORN

pressed my breasts and tried to insinuate his hand underneath my skirt at the meeting of 23 July at my aunt Thérèse Perrault's house in the Sixteenth at which he had spoken so eloquently. The strange Mexican spirit tequila had been served, golden in brandy snifters. I had not taken exception to his behavior, assuming that all Mexican revolutionary leaders behaved in this way, but he had persisted in sending me, hand-delivered by hard-riding vaqueros in Panhards, bottles of the pernicious liquor, one of which my husband was now waving in my face.

I told him I had purchased a few

bottles to assist the cause, much as one might buy paper flowers from school-children, and that Arango was a well-known celibate with a special devotion to St. Erasmus of Delft, the castrate. "You gave him my machine gun," Bluebeard said. This was true; the Maxim gun that usually rested in a dusty corner of the castle's vast attic had been transferred, under cover of night, to one of the Panhards not long before. I had a truly frightful time wrestling the thing down the winding stairs. "A loan only," I said. "You weren't using it and he is pledged to rid Mexico of Diaz' vile and corrupt administration by spring at the latest."

My husband had no love for the Diaz regime—held, in fact, a portfolio of Mexican railway bonds of the utmost worthlessness. "Well," he growled, "next time, ask me first." This was the end of the matter, but I could see that his trust in me, not absolute in the best of seasons, was fraying.

My involvement with Père Redon, the castle's chaplain, was then, I blush to confess, at its fiery height. The handsome young priest, with his auburn locks and long, straight, white nose . . . It was to him that I had entrusted the three duplicate keys to the locked door and the eleven additional



duplicate keys that I had caused to be made by the village's second locksmith, a M. Becque. Redon had hidden one key behind each of the Bronzino plaques marking the chapel's fourteen Stations of the Cross, and since the chapel was visited by my husband only at Christmas and Easter and on his own name day, I felt them safe there. Still, the cache of my letters that Redon kept in a small crypt carved out of the reverse side of the altar table worried me, even though he replastered the opening most skillfully each time he added a letter. The nun's habit that I wore during the midnight Sabbats organized by the notorious Bishop of Troyes, in which we, Redon and I, participated (my shame and my delight, my husband drunk and dreaming all the while), hung chastely in the same closet that

held Constantin's Mass vestments—cassock and chasuble, alb and stole. The ring Constantin had given me, unholy yet cherished symbol of our love, remained in its tiny velvet casket on the altar itself, within the tabernacle, stuffed behind pyx, chalice, and ciborium. The chapel was in the truest sense a sanctuary, all thanks to a living and merciful God.

"YOU must open the door," Bluebeard said to me one afternoon at croquet—I had just hit his ball off into the shrubbery—"even though I forbid it." What was I to make of this conundrum?

"Dear husband," I said, "I cannot imagine opening the door against your wishes. Why then do you say I *must* open it?"

"I change the exhibit from time to time," he said, grimacing. "You may not find, behind the door, what you expect. Furthermore, if you are to continue as my wife, you must occa-



"It always takes Howard a couple of days to relax."

sionally be strong enough to go against my wishes, for my own good. Even the bluest beard amongst us, even the blackest nose, needs on occasion the correction of connubial give-and-take." And he hung his head like a lycée boy.

"Very well then," I said. "Give me the key, for as you know I have lost mine."

He withdrew from his waistcoat pocket a silver key, and, leaving the game, I entered the castle and walked up the grand staircase to the third étage. Before I could reach the cursed portal, a house servant flourishing a telegram intercepted me. "For you, Madame," she said, all rosy and out of breath from running. The message read "930177 1886445 88156031 04344979" and was signed "EVERLAST." Coded of course, and the codebook far from me at this moment, recorded on fragile cigarette papers tightly rolled and concealed within the handlebars of my favorite yellow bicycle, "A" to "M" in the left

handlebar, "N" to "Z" in the right handlebar, in the bicycle shed. "Everlast" was M. Grévy, the Finance Minister. What calamity was he announcing, and was he telling me to buy or sell? My entire fortune, as distinct from my husband's, rested upon the Bourse; Everlast's timely information, which had increased the value of my holdings in most satisfactory fashion, was vital to its continued existence. I'm finished, I thought; I'll wear rags and become secretary to a cat-seller. I longed to rush to the bicycle shed, yet my intense curiosity about the contents of the prohibited chamber exerted the stronger sway. I turned the key in the lock and plunged through the door.

In the room, hanging on hooks, gleaming in decay and wearing Coco Chanel gowns, seven zebras. My husband appeared at my side. "Jolly, don't you think?" he said, and I said, "Yes, jolly," fainting with rage and disappointment. . . .

—DONALD BARTHELME

AT THE TUTOR'S

MY son, Philip, was foundering in the second grade. His teacher, Genevieve Slattery, was like someone in a Wagner opera—huge and bellowing. All she needed was a great Viking helmet with horns. She didn't harm the children who did well. But if any children had learning problems, or were in the least self-conscious or wept easily, she ridiculed them and pointed out their flaws to the other children; being small and immature, they stared or laughed and made everything worse. At the beginning of each school year she elected to read to the class everyone's formal-reading-test score, including the very poor ones, and at the end of the year she callously recited the list of those who would pass on to the third grade. It was like something from another century, another culture.

I found out that she had had emotional difficulties herself as a child in a Catholic school; often, merely having to show up in the morning made her vomit, and a wealthy aunt ended up conveying her to school each day in a black Lincoln limousine, soothing and reassuring her so that she could survive. You'd think she would have had great sensitivity and compassion as a teacher of small children. But her misfortune must have overwhelmed her. She never married and was never seen with a man. When parents confronted her about her part in their children's fears and sorrows, she batted her big, brown eyes and looked shy and innocent. "Who—me?" she seemed to say, coyly turning in on herself.

Philip—a thin, active boy—was well behaved in the classroom. Although already artistic by nature and somewhat rebellious at home, until now he had done well enough in school. But this year he was inattentive and he daydreamed, so he could hardly escape Miss Slattery's harshness. One December day she was about to give the weekly spelling test and saw him ready to start with the two-inch remainder of a pencil. She snatched it out of his hand, flung it across the room, and shouted at him to take the test with a proper pencil. He said he had no other. She yanked the back of his desk up and tipped it toward him, and all its contents crashed to the floor. "Pick it up and find one!" she said with a little gleam in her eye. She was fifty, and her close, black

ringlet curls shone as she tossed her bovine head. In her excitement, her damp bleached mustache glowed. She proceeded immediately to give the test. Philip put everything back in his desk, then just sat in his chair. He always brought all his papers home, and that week's test never appeared, so I knew that his account of the incident was probably all true.

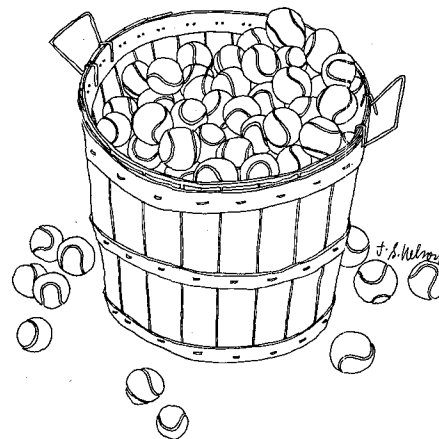
Of course, when he told my wife, Liza, and me about it, Philip did not mention the eye gleam and mustache. But I had sat amazed at them myself during a conference with Miss Slattery a month earlier. Now, enraged, I wanted to go in and inform the principal of her behavior, have Philip moved to another room. But Liza—herself brought up a Catholic, used to submitting unquestioningly to authority—said it would only make Philip more conspicuous and make Miss Slattery meaner to him in the future if he couldn't be moved. It was with great reluctance that I let Liza have her way. I had never been good at accepting authority, and now I felt that I was surrendering to Liza against my better judgment.

She tried to help Philip at home with his work, spending exhausting hours with him at the kitchen table. One night, weeping, he finally lashed out at her, shouted that he hated school, and wildly ran all over the house.

After a while I said, "Leave him alone. He's bright—he'll find his way to it on his own."

"He's got to do what's required of him," Liza insisted.

EARLY in the spring a friend of Liza's referred her to a tutor, and she made an appointment for Philip.



The tutor's name was Eileen Gogarty. She was a social worker who'd quit her job to raise a family. She had taken courses in education and child development. She lived a few miles from our house, which was in the village.

I drove Philip past farmhouses, fields, and stone walls, until we reached a silent housing development, where Eileen had told us she lived in a gray raised ranch. All the houses looked alike to me, and the streets ran around in confusing circles. Finally I found her house and pulled into the drive. We got out and walked to the front door. We stood on a concrete step under a little roof. Philip rang the doorbell. A sturdy, wan girl of about six came to the door, wearing blond pigtails and glasses. She told us politely that her name was Janice. Her mother came and stepped outside the door and introduced herself. She didn't ask me into the house. I said, "I'm Dan Shields, and this is Philip. I think my wife called you about him?" She nodded. She was in her late thirties, tall, pale, and too soft-looking. She wore glasses and had light-brown hair with crinkled white strands running through it, pulled back in a bun. We stood in front of the aluminum storm door and talked for a few minutes about Philip's academic problems, and Eileen said that she thought she could help him. The fee was twenty dollars an hour. He would be coming three days a week. I said goodbye, and she and Philip went down a dark, short flight of stairs inside. Outside, as I passed the front of the house, I looked down through a ground-level window at a little office with a desk, two chairs, and a lighted lamp. Eileen and Philip entered it together as I walked by.

I drove to a nearby town to pick Liza up from work—she's in charge of a large department in an insurance company. We have only one car. Liza doesn't drive, and that really constricts our life. If I bring up the need for her to get her driver's license, she says that her reflexes are too slow—she's afraid she'd kill someone. But many times she has saved our lives by crying "Look out!" just in time. She was waiting in front of the building when I got there. She looked relieved when I let her know that things had started smoothly with Eileen.

At home I prepared dinner—a dish made of chicken, tomatoes, white

wine, and wild marjoram. Sometimes I cook as a way of sharing the work. Liza hates cooking, but it's almost therapeutic for me. It seems to complement my work, which is exacting and delicate. I make stained-glass ornaments—some of them abstract—in our garage and wholesale them to gift shops two or three times a year. I admire Chagall's great stained-glass works, and I try to get something of his vibrancy and color in my small pieces. After college, I wanted nothing more than to be a sculptor and live a large, unfettered life. But I sold very little, grew lonely, and eventually longed for a wife and family. Of course, one does have to earn money. I don't make much. Liza earns the bulk of our

income. Whenever I get downhearted about it and say I should get a salaried job, she seems not to hear me—she just says I do beautiful work and tells me to keep right on doing it.

I drove back to Eileen's at the end of the hour and rang the bell. For a few minutes, no one answered, though I had just seen Eileen and Philip working together at the desk down in the cellar office. At last I heard footsteps on the stairs. Eileen came out. Philip rushed past us, shouted, and started doing somersaults on the grass. He climbed a big oak tree out front. I thought, Look at him—he's lovely just like that.

Janice appeared. She stood beside us, watching Philip—her eyes wide, her mouth open a little, as if in hungry awe of his vitality and freedom in the open world. Eileen glanced uneasily at him. I called for him to climb down and he did. Janice went over and spoke to him. They ran to the edge of the property. Standing next to me, Eileen went over the papers Philip had done with her. She held them tight and they flapped in the breeze, as if they were struggling to fly away. They weren't



"Hadley has never succumbed to the lure of the open road."

good. I felt small and hopeless—as though I were responsible for them, as though they were mine.

"He's certainly intelligent," Eileen said. "He asked me today how a cat can tell another cat is a cat." She shrugged and smiled faintly, as if to say, Well, and how can it? "But he's already fighting," she said. "He tries anything to distract himself from the work. It may take a while, but I'll get him into it eventually. He just needs to learn to contain all that energy. A lot of boys are like that. He needs training about listening and concentrating and following directions."

I took the papers from her and gave her the twenty dollars and thanked her. I had a little trouble making Philip calm down and get into the car. He loves the outdoors.

EACH day that we had to go to the tutor's I felt depressed, humiliated, and angry. And what about Philip? He chafed and swore and said he didn't want to go. Of course he'd much rather have been out in the afternoon—making swords from branches, collecting leaves and rocks, riding his

bike to friends' houses, exploring a nearby creek.

I picked him up at school—a big, square brick fortress—with his papers and books in disarray. I often had to send him back upstairs for a missing book while I sat waiting for him out front. Miss Slattery's two windows glittered above. I hoped that she wouldn't appear in her tower and see me, but sometimes she did. Then a chill went through me, and I pretended not to notice her. Eventually Philip came down, his dark eyes and hair shining, his gait childish but nascently athletic and graceful. His outlook hadn't been entirely ruined by his scholastic experience. He often did amusing clay sculptures, and with colored felt pens he drew page after page of large, beautiful, intricate designs—work that required great concentration and abstract ability. And I heard him laughing out loud when he did get to play with friends on weekends.

The tutoring hour varied, but it was always before dinner. After a while Eileen probably saw that I had enough character to be let in on rainy days when I came to pick Philip up, so

THE LIGHT OF BEING WINDED

A curious phrase, "coming around,"
As though waking were a matter of lapping a track,
Of starting out full-winded and foolish,
and arriving,

Finally, full circle, back at the blocks, breathless
and seeing things
In the light of being winded. So I find myself sitting
slump-shouldered
On the bed's edge. Toward forty, I'm more like my father
than I thought

I could survive. He must have feared for me, the way
I tried
His patience, the way I never seemed to get things right.
Here, he would point, thundering,
This is Shinola. A dozen times or more, over the same
yellowing clumps of lawn

Watered by hand, the mosquitoes whining in what
seemed like bitter clouds,
Myself whining at his side, I pestered him
for the details
Of a story, itself cloudlike and bitter, undeniable
both now and in the winter of '35

When he was seventeen, hauling coal from Allentown
to Jersey, the last run
Till Monday, depending on the weather. He was, so

he said, no longer in love
With the stars, or with the vista and its whiteness
and, from it,

The glare blinding. He was only half asleep
And trucking for a living—tooth and ratchet, claw—
the gears grinding,
Wheeling down the mountainside, the brakes abruptly
giving

In the rig ahead. Fast following through the curves,
sledding, his own brakes pumped so hot
He thought a fire was roaring through the floorboard,
he levelled out from the cedars,
And there it was, as he must have feared, just past
a hairpin,

The rig dumped, motor oil boiling on the block,
and the smoke, like ground mist
Or snow, swirled, this way and that, by the wind.
Over the years, so much of the story
Known by heart, it must have become my heart, it must
have been a dream

I'd been there with him all along, comforted, a little,
by understanding what to do
When there's nothing to be done—stood there briefly,
chilled, overlooking
The scene, before walking on down to the wreckage.

—ARTHUR SMITH

long as I stood in the tiny, dim foyer, where one set of six stairs went up to the living quarters and the other set led down to the office and garage.

Janice always let me in. She said hello reluctantly and went off to read. Often she sat and read upstairs, not far from me, in a big chair on the other side of a wrought-iron railing that was painted white. The back of the chair faced me. I noticed at my eye level a pile of books on the living-room floor near her feet. I watched her pick them up and heard her turning pages rapidly, apparently devouring each book. I heard her eating something out of a cellophane bag or crunching big bites out of an apple. It turned out that she was reading not only stuff that any normal child reads but also books for adolescents and adults.

One time when I returned toward the end of Philip's lesson, a strange, small, grownup-sounding voice was scolding somewhere nearby. I spotted Janice, half hidden in the shadowy shrubs beside the house, talking to an imaginary person. Evidently she had not heard me pull into the drive. When she saw me, she stopped talk-

ing, and everything was silent. She'd been playacting and babbling, scowling, pointing a finger at her invisible adversary.

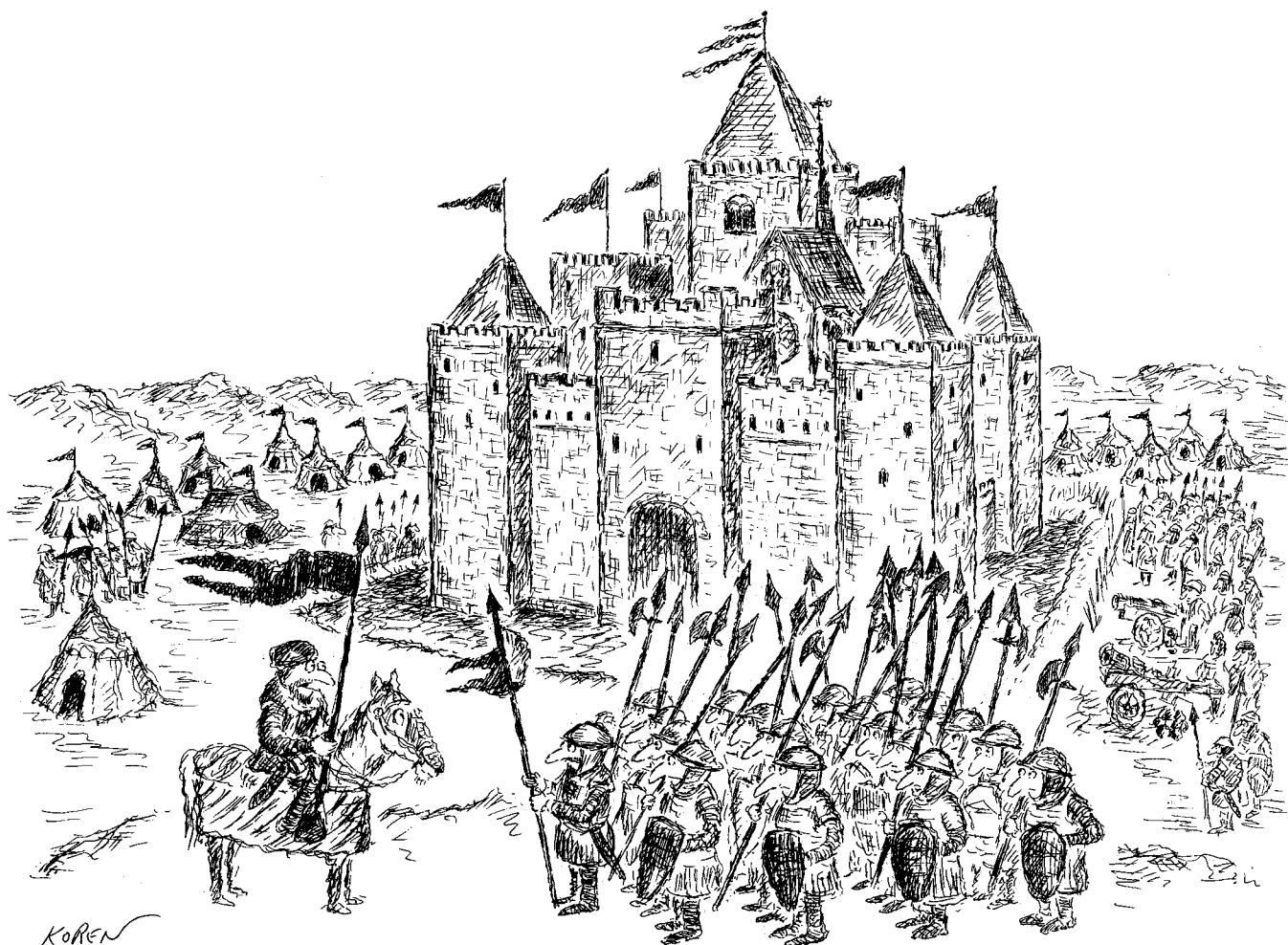
WHEN summer came, Philip had to go to Eileen's an hour a day five days a week, in order to be adequately prepared for third grade. We felt the money draining away, but we survived. I didn't want to make him go there on his beautiful summer-vacation days, or to spend more hours driving and waiting, but there seemed to be no choice. Most of the time, he protested about going. Sometimes he went peacefully, like the sheep we saw grazing in a sunlit field we passed each



day. He had to review all of the second grade with Eileen that summer. Miss Slattery had certainly let him fall by like rotten fruit.

In the autumn Philip had continuing, though slightly abating, trouble in the third grade, but at least his new teacher was equitable, decent, and compassionate. He didn't like school any better. And I was still taking him to the tutor's. In my narrow rage and impotence, I felt that I could hardly see anything in the world around Eileen's house. She still stood next to me at the end of each lesson and went over his papers in detail. The hour had evolved into a period of finishing what he should have done in school. At least he wasn't bringing it home and fighting about it.

While we went over his work, Philip played with Janice. Although he liked her, and she apparently liked him—she always ran out to play with him after his lesson and often touched him and smiled at him—a lot of the time she haughtily ruled over him, telling him what to do, half laughing at him. I noticed that she was reading "Great Expectations": maybe she fan-



"Call off the siege. It's being converted into ninety-three units of coöperative housing."

cied herself Estella and him Pip. When I considered Philip's learning problems and Janice's brilliance, her attitude toward him bothered me.

How peculiar they were—the hefty little genius, awkward outdoors, and the deft, darting boy who did not care for school. Janice could seem babyish, like a child of three. But when she spoke to an adult, wondrous, sophisticated sentences came out of her mouth. She and Philip chased each other and laughed in the front yard. Or they sat together on a red metal wagon, pushing themselves along with their feet. The ground had only a small incline, but they didn't seem to mind.

Janice probably longed for her mother—I could sense both her anger and her strong, quiet patience. And there her mother was, only a few yards away, just downstairs, tutoring—hour after hour, even into the evening, when other children came for lessons. Little by little I realized how difficult it was for Eileen to have this very

bright child. She had to keep her from boredom, and from being made fun of by other children. It must have been hard just finding material to keep Janice's thirst for books and her imagination satisfied. I pictured her in the future, attending Radcliffe—a large, shy, self-conscious girl, *summa cum laude*, all messed up with boys. "I only wish we had a child with her problems," Liza said when I told her about it later. "I don't," I said.

And what of Mr. Gogarty? There was one—a C.P.A., who came home late each day. Eileen told me he was terribly strict about Janice's getting all A's in every single scrap of schoolwork. I hardly ever saw him. He was little and swarthy, with a black mustache, and had a serious, scowling look. Once when Eileen was talking to me in the foyer at six o'clock, he burst in dressed in a sombre suit and almost pushed me out of the doorway as he rushed by with a small grunt of salutation. He bolted up the little flight

of stairs and disappeared. Eileen fidgeted and hurried her final comments about Philip's papers. I wished then that I could say something to help her. Her slightly chapped red lips and white teeth were close to me, her dark-brown eyes blurry and vague behind glasses. For an instant, in a dreamy, unreal way, I imagined kissing her. This notion almost made me shudder. I wasn't interested in her—she wasn't attractive to me, and we had nothing in common except Philip's problem.

Sometimes Eileen spoke almost fondly of Philip, but she spoke wearily, too. Although he was doing better work for her, he concentrated for only short periods of time, and she had to stay right with him.

Eileen let me know indirectly that she had to tutor because she needed the money. She kept talking about car repairs and, now that it was winter, the heating-oil bill. Her car was old and rusted, and her house was as cold as a

tomb. I wondered about it—her husband, after all, was a senior accountant with a very good firm. Liza suggested to me that they were probably economizing severely—saving every penny to send Janice to some fine Catholic girls' college when she turned sixteen.

After a while I sensed that Eileen was longing for something. I thought of her husband, of her alone in the house all day, of her hours bent over the desk downstairs, tutoring.

I HAD been going there for so long that in the spring, because of my own extensive, reflective solitude while sitting in the car or waiting on the concrete step, I began to accept the whole strange predicament. And then I began to see what was right in front of me. Day by day, tiny, complicated red-and-yellow buds opened on the big tree on Eileen's front lawn. It wasn't an oak at all, as I'd thought when blind, but a shapely silver maple. It had a rough, corrugated trunk, and bluish-green lichen clinging to it. Velvet-green daffodil spikes thrust up through dead brown leaves along the base of the house. Then clustered white and magenta hyacinths bloomed there. An unruly forsythia burst forth

wildly yellow. The grass grew dark and thick, and the sun rose higher. A dogwood opened in a mass of white, rusted blossoms.

Surrounded by this beauty, this energy, this explosion of life, Philip sat for one hour twice a week in the depths of the house with textbooks, a math workbook, spelling lists, grammar papers.

Summer came. White-veined leaves expanded and tasselled the tree, shimmered in the wind. I waited on the concrete step. Sometimes Janice passed me on the way in or out and said hello shyly. I thought about her while I watched black ants marching by. She seemed much less imperious with Philip now. Gradually, I put the thing in perspective: she was only a little child—and in these circumstances she was perhaps a victim of great intelligence and its isolating effects.

Huge white clouds billowed in a dark-blue sky. Caterpillars swayed in midair on their long, nearly invisible threads. Sometimes it rained and the earth smelled beautiful. Mosquitoes tried to bite my legs. Spiders ran. Swallows with their check-mark wings darted on and off the telephone lines. The porch ceiling was spotted with inky mildew. I scrutinized it and

wondered, What does Eileen want? Why, to get away from this narrow, empty life, of course. To escape. Once, the garbage pail had been dumped by a dog, and there were wet used tea bags strewn about. Eileen, brooding, sipping cups of tea, I thought.

For a couple of weeks the olive-green house across the street was slowly painted white by bare-chested young men who played rock music on a transistor radio. An ice-cream truck went by, jingling a bell. Children who didn't see me rode past on bikes, laughing and swearing at one another. And Philip read and wrote, and Eileen and I talked about his work.

IT was Halloween. All the dead leaves were down, rustling on the ground. What was Janice going to be this night? A courtly medieval lady with a tall, conical maroon hat and veil. She had written a poem about a princess and a stable boy, Eileen told me, and entered it in a school contest. It won first prize.

A LARGE multicolored turkey cut out of paper was tacked on Eileen's front door. The days were shorter. The wind blew in big, rocking swells, and the branches of the silver maple swayed and creaked. Here and there were white wafers of ice in the drive. Janice let me into the foyer. She did not speak, and disappeared. I stood still, a tall icicle. When no one was there, once, I peeked upstairs. There were no lights on in the living room, which held austere modern furniture; it was like a department-store display. White paper roses sat in glass vases. The room was cold and silent.

CHRISTMAS cards were strung along the wrought-iron railing. They seemed reassuring in a homely, nostalgic way. A child's catechism lay near me on the upper floor. In the foyer, Eileen was saying to me, "His work is not always consistent,



"I don't care if he is one of the few dissenting voices around. Make him stop whispering in my ear!"

but when he tries, it's very good. He still needs some help about distraction. But he's completing a lot more work by himself."

She paused, then said, "I won't be tutoring past next spring. Philip can probably get by without a tutor by then." She smiled. I couldn't help smiling, too. Although I was now selling more stained glass, finishing with a tutor certainly would ease our financial situation. And Philip was beginning to let Liza help him work at home with less resistance, too.

Eileen blushed and told me softly that she was going to have a baby in the summer. She said that she and her husband had prayed for years for a second child and then given up hope. And now it was going to come true.

I thought, She's never going to escape. Can this be her way of trying? But she's not young. And what if she has another genius? Yet I could see her joy, and I felt happy for her. "How lovely," I said.

I was suddenly aware of a figure standing in shadows at the top of the living-room stairs. Ah, Mr. Gogarty. "Eileen," he said in a distant, chilly, commanding voice. "Dinner is getting cold."

ONE day in the dead of winter I was outside, waiting for Philip. I had already stood in the foyer for a while. Janice, wearing a red dress, lugging a copy of "Gone with the Wind," had let me in. She was reading it so intently that she barely looked at me. Then I'd gone back out and glanced downstairs on my way past the house. Eileen was sitting right next to Philip. She looked very white and tired. Upstairs, Janice sat reading. Eileen had recently told me that Janice couldn't wait for the baby to come. But wouldn't she then be longing for her mother more than ever?



"Mr. Carmichael from Purchasing is here, sir. What was it you said you wanted done with him?"

I sat in the car. It was almost twilight. The ground was covered with snow. Before me, a dense legion of trees crowded all the way to the horizon. Their black branches crossed and connected. In the interstices a huge sun was going down. The snow, the deep-violet air, the black network of trees, the round red sun blazed.

I thought of Philip down in the little room, sitting still and silent. Ah, but it's necessary, I told myself. After all, who escapes completely?

The sun had just sunk below the horizon. Ahead of me, the black tangle of trees was lighted by a vast, invisible fire. I imagined a faraway land where the sun was just rising. High up on a cold, barren plain, a band of little men rode in a tight circle, breaking in beautiful wild horses.

After a long while Eileen's front door opened. Philip raced toward me in deep shadows. In the drive, ice wafers broke beneath his feet. The last light caught his body, and his eyes flashed. He slipped into the car.

"Dad!" He spoke in an exultant rush. "She says that when it's spring

I'll never have to come back here again."

"Wonderful," I said, touching his shoulder, holding on to him for a moment. I felt his body slacken with relief. I knew he would never care about academic thickets. But I also knew he'd eventually get through them.

I backed out of the drive to the street and looked at the blackening house, the dimly lighted, covered step. Something bright caught my eye. It was Janice's red dress. She was standing in the foyer, motionless behind the large glass of the storm door, holding her thick book close to her chest. As we drove past, she raised her right arm as if she were about to wave. Instead, she brought her hand quickly to her lips, then swept it toward the dark.

—H. L. MOUNTZOURES

GOD LOVES YOU, AND HAS
A WONDERFUL PLAN FOR YOUR
BANK ACCOUNT

—Adv. in the Saturday Evening Post.

You mean He's going to let us take it with us after all?

ANNALS OF LAW

TWO TRIALS—I

"ONE moment, please," Judge Pierre N. Leval said on January 17, 1985, to the twelve jurors and six alternates in Room 318 of the United States Courthouse, on Foley Square, in Manhattan. It was late Thursday afternoon. Judge Leval had already adjourned the case till Monday, wished the jurors a pleasant weekend, and, after his customary admonition to them not to discuss the case with anyone or to permit themselves to be influenced by the press in any way, even said, "The jury is excused," before introducing an apparent afterthought. "The point that I want to raise," he said, "is that many of you are probably aware, or all of you may well be aware, that there is another case in the courthouse, in this courthouse, as to which parallels or comparisons have been drawn from time to time. . . . As I understand it, from what I have seen in the press, in that case the jury is now deliberating, and sometime in the future, today, tomorrow, I don't know when, the jury may come up with a decision in that case. I haven't the slightest idea what kind of decision the jury is going to reach in that case. I don't know a thing about that case. But the point that I want to make to you is that that case is that case and this case is this case. . . . It is absolutely and totally different. If you take two automobile accidents, they have nothing to do with each other, one is one, the other is the other." The judge added that he was calling the jurors' attention to the differences between the cases *before* the other jury reached its verdict so that they should not even draw the inference that "I am suggesting you should decide differently, or I don't know what." On January 24, 1985, the following Thursday, Judge Leval again allowed to the case in Room 110, two floors below, which seemed to be reaching another stage of its dénouement: "Remember, as I told you previously, that this case is this case, and any other case that is being tried has nothing to do with this one. You are not to be influenced in any way as a result of any other cases, or what anybody may say in the press about any other cases or this case. Have a pleasant weekend. You are excused."

"I AM going to send the jury out on everything, virtually everything," Judge Abraham D. Sofaer had said,

earlier that month, in the robing room, to the attorneys in "the other case," "no matter what they find. I am going to have the jury make all the findings now that we need to *put this case to rest forever*."

"That is an ambitious undertaking," counsel for the defense said; then, apparently warming to the thought, "I think that is a great idea. I think it is ambitious, but I think it is a great idea. If we can get away with it."

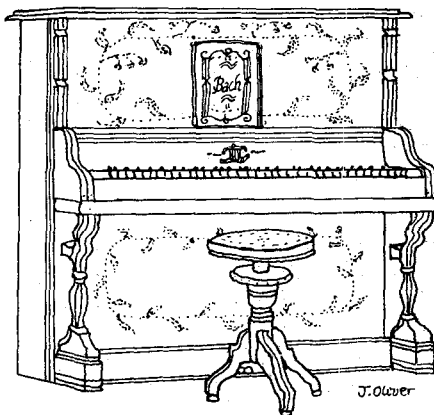
"Let's say, for example, they find—" Judge Sofaer began.

"I think you are right," defense counsel interrupted. "I think to the extent we can preclude the future by decisions, I think we ought to."

The trial, at this point, was far from over. The plaintiff had not yet completed his case, and the defense had not, technically, begun its presentation. Certain evidence, which had been sought for months by Judge Sofaer, with the complete agreement of counsel for both parties, had not yet been received and might never be received. But the judge, as is the custom in modern jurisprudence, was carefully working out, with the assistance of both parties, the charge he would ultimately make to the jury, and even the details of the verdict form. On the procedure by which the judge intended to "put this case to rest forever," plaintiff's counsel agreed enthusiastically with defendant's counsel. At only one other moment in the course of this particularly embittered litigation were opposing counsel so completely in accord that they worked virtually in tandem. On the morning of January 10, 1985, both attorneys went to yet another courtroom, on yet another floor of the federal courthouse, to argue before three appellate judges against

an attempt to overturn an order by which Judge Sofaer had barred from his courtroom, for less than twenty minutes, during which certain testimony and documents temporarily under seal were presented to the jury, all spectators, including the entity mentioned so obliquely and yet insistently by Judge Leval: the press. For almost a day, then (until the judge lifted his own order, the matters temporarily under seal became public, and the appellate proceeding became moot), the courthouse contained yet one more anomalous lawsuit. Judge Sofaer himself became, however briefly, the defendant, assisted by both attorneys in the case before him, in *Washington Post*, *New York Times*, *Newsweek*, *Philadelphia Inquirer*, CBS, NBC, Associated Press, *Newsday*, et al. v. Abraham D. Sofaer.

ON the night of Saturday, January 23, 1982, CBS broadcast a ninety-minute documentary entitled "The Uncounted Enemy: A Vietnam Deception." The program, which consisted largely of interviews conducted by Mike Wallace, and which was produced within the CBS News department by George Crile, purported to describe, for the first time, certain events in 1967, which, according to the program's opening statement, reflected "a conspiracy at the highest levels of American military intelligence"—specifically, within the command and upon the orders of General William C. Westmoreland—"to suppress and alter critical intelligence on the enemy," and to deceive the American people, Congress, the Joint Chiefs, and the President of the United States about the strength, in numbers, of the North Vietnamese Army and the Vietcong. The phrase "CBS Reports has learned" recurred at several dramatic moments in the program, and the deception CBS claimed to have discovered seemed to consist of understating enemy troop strength in two ways: by deliberate reduction of intelligence estimates of the rate of infiltration by North Vietnamese soldiers into South Vietnam in each of the five months before the Tet offensive, of January 30, 1968; and by deleting, in 1967, from what is known in the military as the Order of Battle, intelligence estimates of the number of civilians, in villages or hamlets, who actively,



though irregularly and in no official capacity, supported enemy troops. The purpose of the deception, according to the broadcast, was to lead the people, Congress, the Joint Chiefs, and the President to believe we were winning a war, which in fact we were losing. And among its results were a complete unpreparedness, in the White House and on the battlefield, for the size of the Tet offensive; an incalculable and unnecessary loss of American soldiers; and, by clear implication, the ultimate loss of the war.

The program was not just enthusiastically endorsed; it was, perhaps more implausibly, *believed*, without reservation, by almost the entire American press. On Sunday, January 24, 1982, the morning after the broadcast, in an editorial entitled "War, Intelligence and Truth," the *Times* called the report "more than a matter of history," for having "showed" that President Lyndon B. Johnson "was victimized by mendacious intelligence." On January 26, 1982, General Westmoreland, together with five former officials who were in a position to rebut the program in rather considerable detail, held an indignant press conference; there were also detailed protests from other officials, in letters columns. But even William F. Buckley, Jr., in his column of February 2, 1982, called the program a "truly extraordinary documentary," which established its substance "absolutely;" and, from *The Nation* to the *Wall Street Journal*, throughout the country and across the political spectrum, no serious journalist or publication called any element of the ninety-minute program into question. Editorials simply treated the broadcast as true and proceeded to draw various lessons from it.

On May 29, 1982, however, four months after the broadcast, two reporters, Don Kowet and Sally Bedell, published, in *TV Guide*, an analysis of "The Uncounted Enemy: A Vietnam Deception," in terms not of historical substance but of journalistic ethics and procedure. Their article, a cover story called "Anatomy of a Smear," found errors and abuses ranging from arguably trivial violations of CBS network guidelines to distortions and misrepresentations of the most serious kind. CBS, to its great credit, undertook an internal investigation under the direction of a respected journalist, Burton Benjamin, which led to a document that has since become known as the Benjamin Report. Both the article



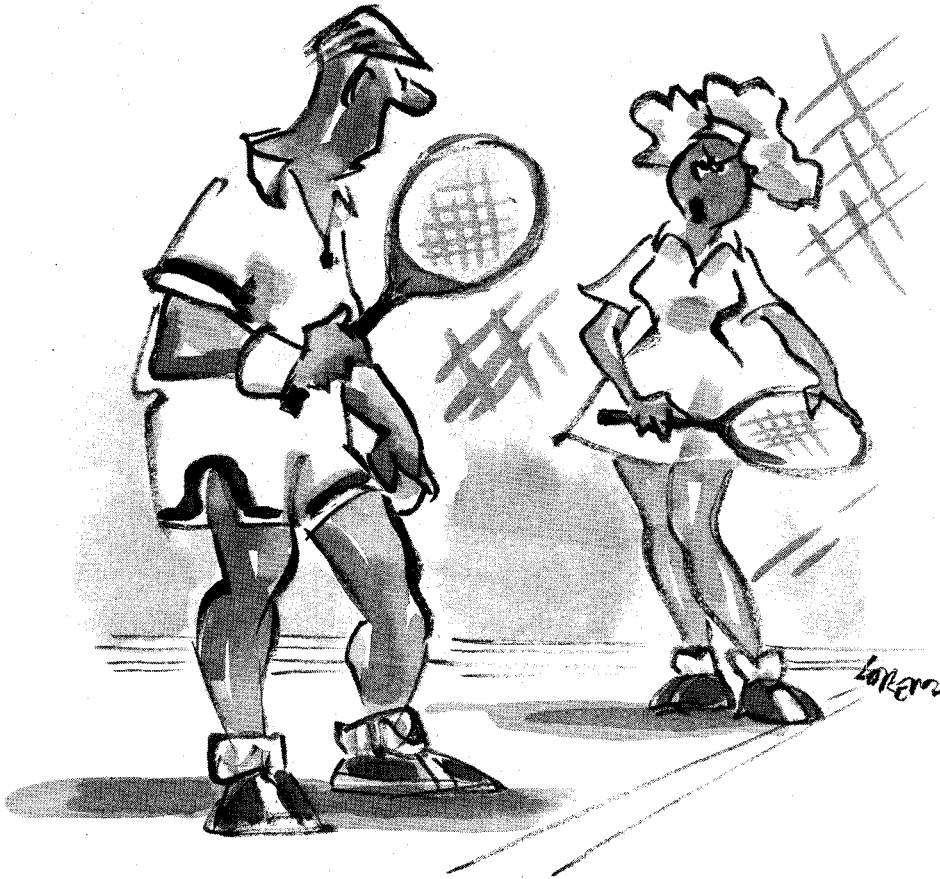
"He was a man of simple tastes—baked macaroni, steamed cabbage, wax beans, boiled onions, and corn fritters."

"Anatomy of a Smear" and the Benjamin Report, which was not published, generated a small flurry of attention; but both the article and the report (and a book, "A Matter of Honor," which was published almost two years later by Don Kowet) were also treated, in almost every subsequent discussion by the press, not as legitimate reporting—or as instances of precisely the kind of vigorous dispute that was contemplated by the Founding Fathers in creating the press protections of the First Amendment—but as instances of unworthy and unprofessional betrayal. Well before September of 1982, when General Westmoreland brought suit against CBS for libel, serious journalists regarded CBS, Mike Wallace, and George Crile as victims, and the authors of the Benjamin Report as dupes of the American right, Sally Bedell, Don Kowet, and *TV Guide*. In April of 1983, fifteen months after the broadcast, Hodding Carter, on public television, raised certain questions about the program's accuracy and fairness. Then, regardless of what the

story implied at that point about the press, the war, the law, or even what is meant by "conspiracy," "documentary," "military intelligence," the matter of what "CBS Reports has learned" receded for almost two years from the press and from public consciousness.

IN its issue of February 21, 1983, *Time* published a cover story, "Verdict on the Massacre," based on the findings, in Israel, of the Kahan Commission, which, after four months of investigation, had just published its Final Report, concerning responsibility for the massacre of several hundred civilians in the Palestinian refugee camps (actually, as the report pointed out, not camps at all but villages, composed of solid structures, with basements) at Sabra and Shatila, in Lebanon. Under a second heading, "Cover Stories: The Verdict Is Guilty," *Time* ran a long article that contained the following paragraph:

One section of the report, known as Appendix B, was not published at all,



*"Look, I didn't come down here to work on our relationship.
I came here to work on my backhand."*

mainly for security reasons. That section contains the names of several intelligence agents referred to elsewhere in the report. TIME has learned that it also contains further details about Sharon's visit to the Gemayel family on the day after Bashir Gemayel's assassination. Sharon reportedly told the Gemayels that the Israeli army would be moving into West Beirut and that he expected the Christian forces to go into the Palestinian refugee camps. Sharon also reportedly discussed with the Gemayels the need for the Phalangists to take revenge for the assassination of Bashir, but the details of the conversation are not known.

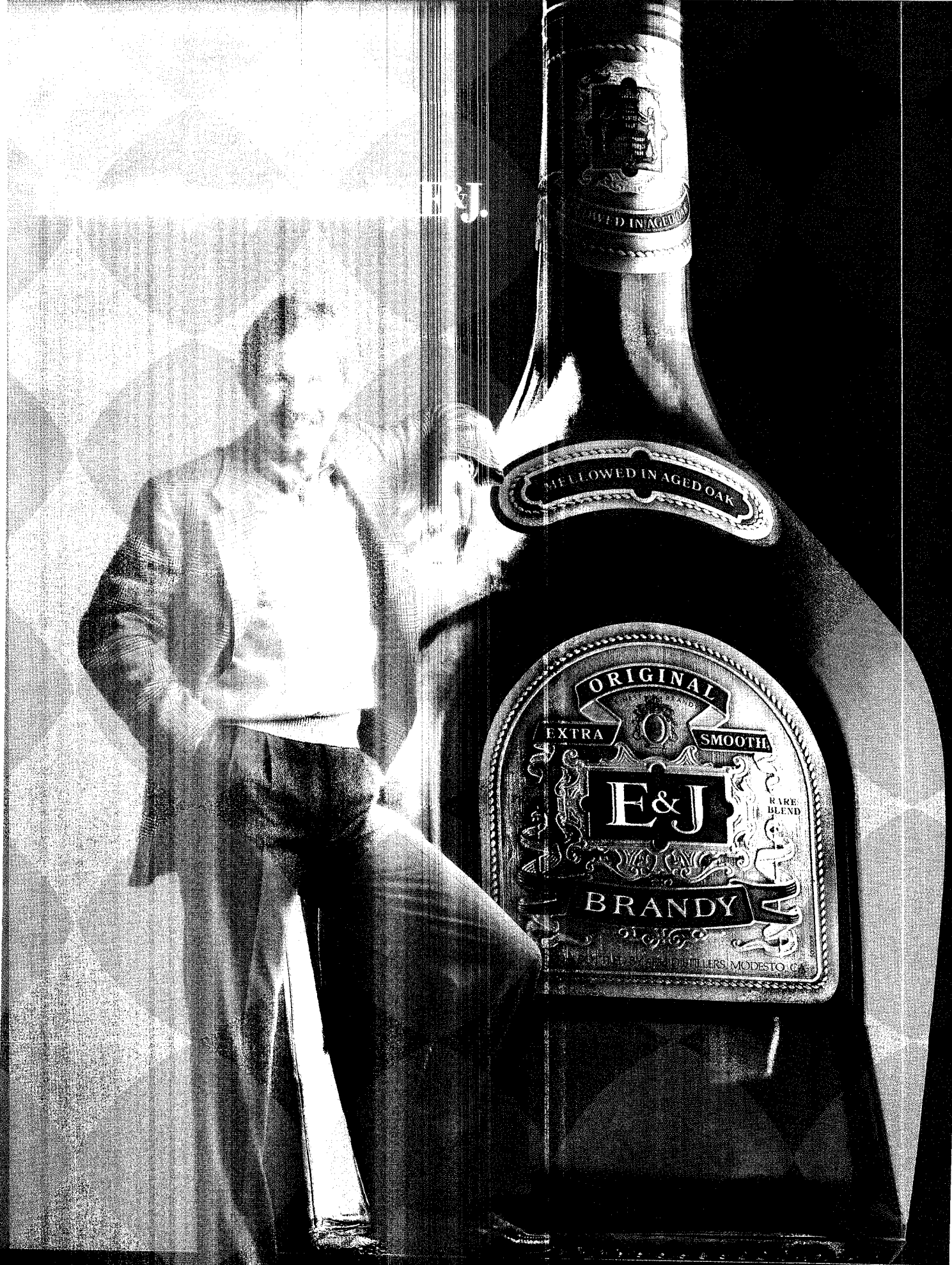
The story was picked up, within days, by newspapers throughout the world, and featured on the front page of every newspaper in Israel. Most, though not all, publications attributed to *Time* the information that a secret portion of the Kahan Report, Appendix B, contained details of a conversation in which, on the morning after the assassination of Bashir Gemayel (and the eve of the Sabra and Shatila massacres), Ariel Sharon, the Defense Minister of Israel, had discussed with the Gemayels, at their family home in Bikfaya, "the need for the Phalangists to take revenge." There was no speculation as to whose was "the need" in

question—or as to why "revenge" should be taken upon the Palestinians of Sabra and Shatila when, according to the Kahan Report itself, the group responsible for the assassination was not Palestinian at all but Lebanese (and supported by the Syrian government): the Mourabitoun. The Kahan Report, as published, had in fact mentioned Sharon's visit to the Gemayels at Bikfaya, characterizing it as a "condolence call" and seeming to attach no importance to it—in particular, attaching to it no footnote (as to accounts of every other secret meeting of significance to Sabra and Shatila the report did attach a footnote) to Appendix B. No publication mentioned this apparent discrepancy. Most simply accepted, and even paraphrased, *Time's* story, to the effect that Sharon had actually urged the Phalangists to avenge Gemayel's death by the massacre that occurred the following day, and that the proof of this was contained in that secret part of the Kahan Commission's findings: Appendix B. Prime Minister Menachem Begin and Sharon immediately denounced *Time's* story as a vile and utter fabrication and demanded an apology. Harry

Kelly, *Time's* Jerusalem bureau chief, cabled the New York office, "We must really have struck a nerve. Cheers."

Some evenings later, at a dinner party in Jerusalem, Kelly met Ehud Olmert, a member of the Israeli parliament, who told Kelly that *Time* was mistaken, and that Appendix B contained no mention whatever of the discussion *Time* described. Olmert, a member of the Knesset Defense and Foreign Relations Committee, which had access to all documents of the Kahan Commission, offered to check again; the next morning, he called Kelly at *Time's* Jerusalem bureau to report that he had reread Appendix B, and that the story was indeed completely wrong. Whether Kelly passed this information on, to his editors, or to anyone, is a matter of some dispute. In a sworn deposition of September 19, 1984, Kelly says that he tried to reach Richard Duncan, *Time's* chief of correspondents, in New York, "as soon as I could," following Olmert's phone call, but cannot recall the date (whether it was the day of Olmert's call, a Monday, or the weekend after) or whether he told Duncan what Olmert had said ("It follows logically I would have, but I can't recall the conversation"), or what, if anything, he said to Duncan or to anyone else about the matter, if in fact he mentioned it. In any event, asked at the same deposition whether he considered what Olmert told him "to be news," Kelly, the bureau chief, says "No, not really;" certainly he sent no telex to New York about it, and made no effort to check or confirm it in any way. To most other questions about the episode, Kelly says, "I don't recall." Months later, in his testimony about whether or not he told Duncan what Olmert had said, Kelly sounds both more definite and less clear: "I am positive—I am not positive that I told him. It was the reason I was going to call him. I can't believe that I didn't. . . . Now I am certain. I did tell him." He also says that a primary reason for not checking Olmert's information "was that he had been 'suspicious' of Olmert for in effect violating Israeli law by confiding 'to me what is essentially a state secret'—namely, the contents (or, for that matter, the non-contents) of Appendix B.

ON September 13, 1982, William C. Westmoreland brought suit in South Carolina against CBS for libel, on the basis of its ninety-minute



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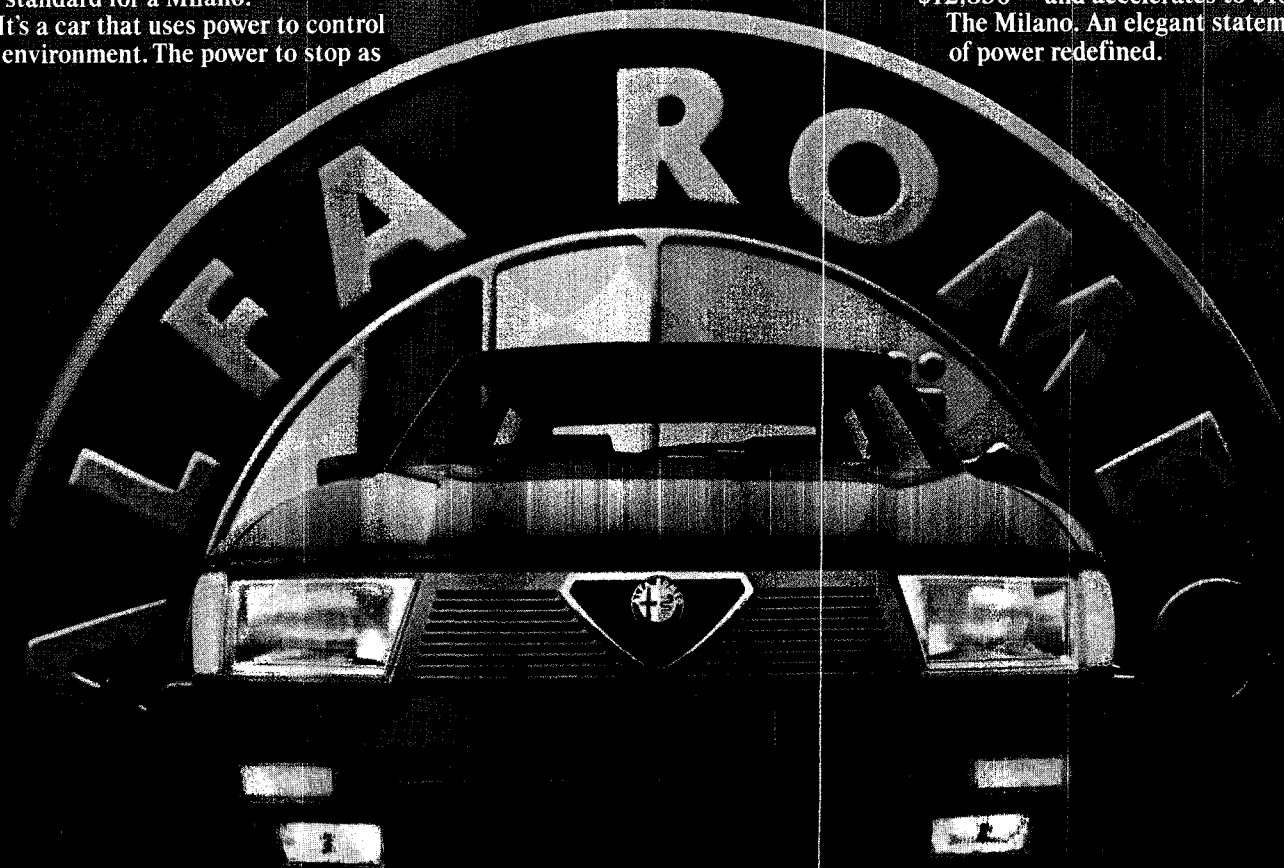
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broadcast. On February 28, 1983, Ariel Sharon brought suit in an Israeli court against *Time*, on the basis of its paragraph. On November 18, 1982, General Westmoreland's suit was transferred to New York from South Carolina. On June 22, 1983, Sharon also filed suit against *Time* in New York. Both suits were ultimately tried in the federal courthouse on Foley Square in Manhattan, in the Southern District of New York. And although, as Judge Leval so many months later put it in *Westmoreland v. CBS et al.*—along with the network, Westmoreland had named as defendants Mike Wallace, George Crile, and a paid consultant for the program, Samuel A. Adams—"that case is that case and this case is this case," and, like "two automobile accidents, they have nothing to do with each other," there were unmistakable similarities. Both plaintiffs were former generals. Both defendants, CBS and *Time*, were press. The spectators in both courtrooms were mostly press. And most of what the outside world would ever hear of either case would come, inevitably, from the press. Both defendants, as it happened, were also represented by the same large and powerful New York law firm, Cravath, Swaine & Moore. And for many months, until almost the moment of jury selection, there was every reason to believe that neither case would ever come to trial. Westmoreland and, later, Sharon had both consulted lawyers (different lawyers, sympathetic to their respective cases) who had advised them in the strongest terms not to bring suit. As a matter of libel law, neither case, it seemed, could raise any issue of the slightest interest or importance. Each plaintiff, like any other "public official" since the strange and historic Supreme Court decision, in 1964, of *New York Times v. Sullivan*, would have the burden of proving, in an American court, that the allegedly libellous statements were of and concerning himself, that they were defamatory, and that they were false; also, that they were made with actual malice, and that he was damaged by them in some way. These burdens on libel plaintiffs are by far the heaviest imposed by any judicial system in the world. In England, for example, as in every other Western European country, the burden falls on the publishing defendant to prove the truth of the alleged libel (rather than upon the plaintiff to prove falsehood); and even the truth itself is sometimes held not to

excuse but actually to aggravate a defamation. In this country, truth is an absolute defense.

Certainly as an intellectual, and even as a legal, matter, *Times v. Sullivan* had unintended consequences (mainly, vast sums awarded in bizarre jury verdicts, overturned upon appeal) and left problems that, after more than twenty years of litigation, were no more clearly articulated or resolved. Common-law "actual malice," for example, had been redefined in recent law to mean not what is conventionally understood by "malice," actual or other, but "knowledge of falsity" of a defaming statement, or "reckless disregard" as to whether it was false or not; and "reckless disregard" as to whether a given statement was false had, in turn, been redefined to include "serious doubt" as to whether it was true. Upon a moment's reflection, and quite apart from any effect this redefinition might have upon the interests of plaintiffs or defendants (both claim it works to their detriment), this runs counter not only to reason, coherence, and common sense but also to any conceivable purpose the law is meant to serve. To begin with, a "serious doubt" is, obviously, a form or a sign not of "reckless disregard" but of its opposite. They are almost incompatible: "seriousness" in this sense with "recklessness;" and the concern that "doubt" implies with "disregard." It seems equally clear that any journalist, scholar, or citizen of any other kind brings to much, perhaps most, of what he says or writes a "serious doubt," and then publishes what he has, on balance, honest reason to believe. The "doubt," moreover, is normally an expression not of bad but of good faith. In public discourse, false statements will inevitably occur; and, in the criticism, debate, and polemic that democracy requires, some of these statements are bound to be defamatory; but it simply cannot be that the only false, defamatory statements that the law protects are those made with absolute, implacable certainty. And it cannot have been the intention of the framers to discourage good- or, for that matter, bad-faith doubt, or, in the First

Amendment, actually to protect the polemical writings only of monomaniacs, the incurious, adherents of dogmas, and other persons whose intellectual capacity precludes them, for whatever reason, from having about something they may say or write a serious doubt. While courts sometimes require the sort of declension that leads from common-law "actual malice" to Sullivan's "knowledge of falsity" or "reckless disregard" (in itself a rather considerable "or"), when they arrive at a virtually unintelligible formulation, ("serious doubt" as a form of "actual malice") something is seriously amiss; and it is no wonder that juries are confused.

This problem, of an imprecisely articulated and ultimately unintelligible standard, creates instability in the law from time to time—particularly when, as in *New York Times v. Sullivan*, a fair, well-intentioned, timely, rightly decided, but not very carefully reasoned case makes a radical change in centuries of law. But neither Westmoreland's case nor Sharon's, it seemed, could raise even a minor issue under Sullivan. Generals, military men, live by rules other than those which govern civilians. In the conduct of war, they can, in fact as a matter of duty must, send men to die, and authorize the killing of other men; and it is often part of their professional obligation, for purposes of morale and propaganda, to deceive—particularly in the matter of enemy troop strength. The military has its own courts. It is true that if either Westmoreland or Sharon had engaged in the specific conduct that the alleged libels implied he would have been in violation even of military law. Still, there was something unseemly in the notion of a military man's bringing this sort of civil action in a civilian court. The main legal point, however, was this: that in the unlikely event that either of them should prevail before a jury the decision would almost certainly be reversed upon appeal. The higher courts would simply find that within the category "public official" there exists a smaller category, "high military officer," which must meet an even more formidable burden of proof, or perhaps be precluded from suing for libel at all.

But in the summer of 1982 Dan M. Burt, a thirty-nine-year-old attorney who had never tried a jury case before, found his way to General Westmoreland and offered, as president of the Capital Legal Foundation (a conservative group concerned chiefly with



warding off federal regulation of private enterprise), to bring the suit at no cost to General Westmoreland. In mid-1983, Ariel Sharon found his way to Milton S. Gould, a highly experienced lawyer in his mid-seventies and a partner in the respected law firm of Shea & Gould, who, after some discussion, decided to bring the suit at his own expense. Even after the suits were filed, however, it seemed unlikely that they would go forward. Cravath, Swaine & Moore has been known (particularly since the I.B.M. anti-trust cases, which lasted nearly fifteen years and ended, in 1982, with the absolute victory, in all cases, of Cravath's client, I.B.M.) as an unusually thorough and aggressive law firm. Thomas D. Barr, the Cravath partner who had been in charge of I.B.M.'s defense against the government's anti-trust case, was in charge of *Time's* defense against Sharon. David Boies, the Cravath partner who had been in charge of I.B.M.'s defense against major suits by private companies, represented CBS against Westmoreland. Cravath proceeded, characteristically, on all fronts—including motions, supported by memorandums of three hundred and seventy-eight and a hundred and ninety-two pages, respectively, for summary judgment on behalf of CBS and *Time*. Motions for summary judgment are not at all unusual. Since the whole purpose of such motions, however, is to prove that there exists "no genuine issue of material fact" to be decided between the parties, they are normally simple, and short. On September 24, 1984, Judge Leval denied CBS's motion; on November 12, 1984, Judge Sofaer denied the motion made by *Time*. In each case, there had already been months and volumes of discovery—the process by which, under American law, each side is entitled to receive from the other all evidence that is "relevant to the subject matter" of the trial. It is this process that means that, theoretically and in most cases, there can be no "surprises" of the sort that occur in Perry Mason courtrooms; each side knows fairly specifically and in advance what the other side is going to say. The resources of Cravath and its media clients, however, so far exceeded the resources of their opponents it seemed possible that, simply by making the broadest possible discovery (blanket subpoenas for documents, deposition of witnesses all over the world), CBS and *Time* might (as richer litigants often do) exhaust the plaintiffs' finances on discovery alone.

Nonetheless, on October 11, 1984, at 10 A.M., with the words "I am advised that we are short one juror," Judge Leval opened the trial of Westmoreland v. CBS et al. On October 31, 1984, at 9:20 A.M., Judge Sofaer began selecting the jury for Sharon v. *Time*. The process of jury selection occupies sixty-eight pages of transcript in the Sharon case; the actual trial began on November 13, 1984. The Westmoreland transcript begins only with the actual trial. Twelve jurors and six alternates were empanelled in Westmoreland. Judge Leval encouraged them to take notes, on yellow legal pads. Six jurors and five alternates were empanelled in Sharon. Judge Sofaer did not permit them to take notes. The Westmoreland case lasted more than four months, the Sharon case slightly more than ten weeks. Both cases became, against all odds and in entirely unanticipated ways, historic. Westmoreland was suing for well over a hundred million dollars, Sharon for fifty million, but nobody ever doubted that both sums were arbitrary and preposterous—or, for that matter, that neither general had brought his suit for money. "If I may say," Sharon said on September 5, 1984, the second full day of his deposition, "I believe that my lawyers were the ones that fixed the figure . . . in order that people will take it seriously." Westmoreland had promised to donate any money he received to charity. Whatever their other motives may have been (pride, anger, honor, politics at home), the plaintiffs were clearly suing on principle, and that principle, in each general's mind, at least, was truth: not justice but plain, factual truth. General Westmoreland's claim that he did *not* order a false ceiling on estimates of enemy troop strength and thereby deceive, among other military and civilian superiors, his Commander-in-Chief, and Sharon's that he did *not* discuss revenge at any meeting with the Gemayels, and thereby encourage the deliberate massacre of noncombatants, including children, in the camps, were both pursued, in the courts, on an oddly journalistic basis:

difficult as it might be to prove a negative, and whatever else either man might have felt he had to answer for, they decided to establish, for their contemporaries and for history, that in these particular instances the media, maliciously, and perhaps typically, got it wrong.

As it happens, American courts are not designed, or even, under the Constitution, permitted, abstractly to resolve issues of this sort, to decide for history what is true and false. They exist not as ministries of truth but to resolve concretely whether this plaintiff has been injured by this defendant, and, if so, what amends the defendant should be required to make. CBS and *Time* were proceeding, too, on principle—a conception, for instance, of the First Amendment that required them, at vast expense and on behalf of *all* the press, to resist "chilling effect" and defend "breathing room," with a broad policy of not settling libel suits and of "standing by our story" whenever they felt themselves attacked.

So the generals came, in a sense, to establish a journalistic proposition; and the press defendants came to uphold what they thought of as a principle of constitutional law. As for the lawyers, they came, of course, to win; and it was they, after all, who ran the cases. This is true, obviously, of most litigation: the clients, not trained in the law, are in the lawyers' hands. But the affinity between the attorneys from Cravath, for instance, and their media clients was exceptional, in that they often seemed actually to have exchanged roles—the lawyers undertaking, from the first moment of discovery, all the interviewing, checking, and investigation that are normally the province of reporters; and the press witnesses crossing over so far into advocacy that the judges had frequently to remind them that they were in court to answer questions, not to lecture or debate. Both trials seemed to have, for various constituencies, broad political, and even moral, implications. The Westmoreland case, especially, became for ideologues of the left and the right what it could as a legal, intellectual, or factual matter never be: a trial of the American involvement in the war in Vietnam; or, for the other side, a trial of the press's involvement in that war. But, whatever else they were (and they were, under two remarkably fair, intelligent, and articulate judges, strictly and preëminently trials), these cases also brought together, in an almost astrological configuration, four im-





Q. Would you buy a pair of shoes from this man?

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Above is a rare photo of Jim Jennings, the "old shoe dog" who governs the buying and selling of Lands' End shoes. Rare, because Jim is seldom caught in repose. But Carol Sadtler, one of our resourceful creative people, cornered him one day, and what follows are excerpts from an interview that may lead you to rethink whatever prejudice you may have against ordering shoes from a catalog. Even ours.

Carol: *How long have you been in the business, Jim? And how does that affect your buying shoes for your customers?*

Jim: Let's see... about 20 years, I guess. When you've been around that long, you see a lot of companies come and go. You get to know the good, reliable ones. The ones that make the Lands' End kind of shoe.

Carol: *And what kind of shoe is that?*

Jim: The kind of shoe that goes with the clothing we sell. Not "high fashion," or a "hot seller." But classic. We offer casual shoes, as you know, and a very controlled line of dress shoes. Always in style. And as well made as possible.

Carol: *What steps do you take to get that kind of quality?*

Jim: Extra steps, frankly. When we look at a shoe, we'll see what we can add to it to give it more quality. Like a leather lining instead of vinyl, so the shoe wears longer and breathes better. Or a wool lining instead of acrylic in a pair of slippers. Or we'll add a better sole.

(JIM PAUSES, RUMMAGING AROUND IN SOME SHOE BOXES AND COMES UP WITH A PAIR OF LANDS' END "DUSTY BUCKS.")

Here's a perfect example. We took these traditional Bucks. Nice suede leather, but the rubber soles wore out in a big hurry. And they were heavy. So we added a lightweight Vibram® sole, with a real tough skin to make it long-lasting. Now, instead of a Buck, we give you a Buck-and-a-quarter.

Carol: *They warned me about your puns, Jim. Let's get serious again. I'm told you visit manufacturers quite often. Right? What do you look for?*

Jim: Actually, as a company we probably do make more factory visits than most. That's really the only way to maintain quality. You just can't run our business from an "ivory tower." And when we do visit, we look to see how things are organized. And at how many points the shoes are inspected. After a while, you can tell how neat and careful the work is at every step.

Carol: *Do you literally look over a handsewer's shoulder?*

Jim: You bet. You look to see how neat and even the stitches are.

Carol: *That kind of quality control must take a lot of travel.*

Jim: It does. But we're fortunate in having built up a very strong domestic structure of suppliers. Which means for the customer that we can keep an eagle eye on quality, and keep the shoes they want in stock too.



Carol: *But you buy shoes overseas, too?*

Jim: Yes, indeed. We go where we can get the best shoe. Italy, for example, for the fine leathers and excellent craftsmanship for some of our dressier shoes.

Carol: *How do you do all these extra things and still keep prices as low as they are?*

Jim: We have several things going for us. We don't operate on the normal 50% retail mark-up. We're direct merchants, with no middlemen to raise costs. Also, we order in large quantities. And we have long-standing relationships with our suppliers, which helps.

Carol: *What would you say to the person who hesitates to order shoes from a catalog because of fit?*

Jim: We make an extra effort to standardize sizes within our offerings. We've used the same lasts—which determine fit—for ten years or more in many of our shoes. And we fit-test a shoe on 20 to 25 people before we offer it.

Carol: *Gee, you seem to have things all worked out. Don't you have any problems?*

(LONG PAUSE. JIM LAUGHS A LITTLE NERVOUSLY. FINALLY, HE ANSWERS.)

Jim: Frankly, the hardest thing to do is managing the variety of sizes and colors we offer in each style. We try our darndest to fit everybody, and that means we have to keep track of something like 1,863 offerings.

Carol: *That ought to keep you busy. And your customers happy.*

Jim: Well, Carol... that's the idea!

* * * * *

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mense and powerful constellations within the American system: the courts; the military; the lawyers; and the press. And, from almost the moment the first depositions were taken, through all the months of testimony, until the cases ended, both trials called into question certain fundamental assumptions about these institutions—and resolved, almost in passing, at least two matters peripheral to the law but until now, it seemed, critical to press, and even military, understanding of modern life. *Westmoreland v. CBS* marked the end, for instance, for any thinking person, of whatever specious factuality was ever associated with “intelligence estimate.” Sharon *v. Time* marked, at last, the *reductio ad absurdum* of the “confidential source.”

When a European picks up his newspaper (and, for that matter, when a Founding Father did), he expects (or expected) reporting based on political views very like his own. A reader of, for example, *L'Humanité* or *Le Figaro* believes that what he reads there is “true,” but only in the sense that it accords in most respects with what he already believes in other ways. And that very slant, or party line, may sometimes uncover a truth that papers loyal to other party lines deny, obscure, or simply will not pursue. The framers, to an even greater extent, expected the widest, fiercest diversity among publications: newspapers, essayists, pamphleteers debating and vilifying not only one another but public figures with whom they disagreed. It was this diversity among contending voices, with readers free to choose, that the framers understood by “press,” and intended, in the First Amendment, to protect against abridgment by the government: “Congress shall make no law . . . abridging the freedom of speech, or of the press.” And the publications were, of course, within the rhetorical conventions, and on a scale of distribution, commensurate with the time. The Constitution can hardly have envisioned, on the part of the press, a power, a scale, and, above all, a unity, which is in part, but by no means entirely, a result of technological advance.

With few and small exceptions—*The Nation*, say, or the *National Review*—an American no longer expects from his source of news a political viewpoint that comports with his own. His expectation, as in no other country and at no other time in history, is, rather, this: that, *given* the technology

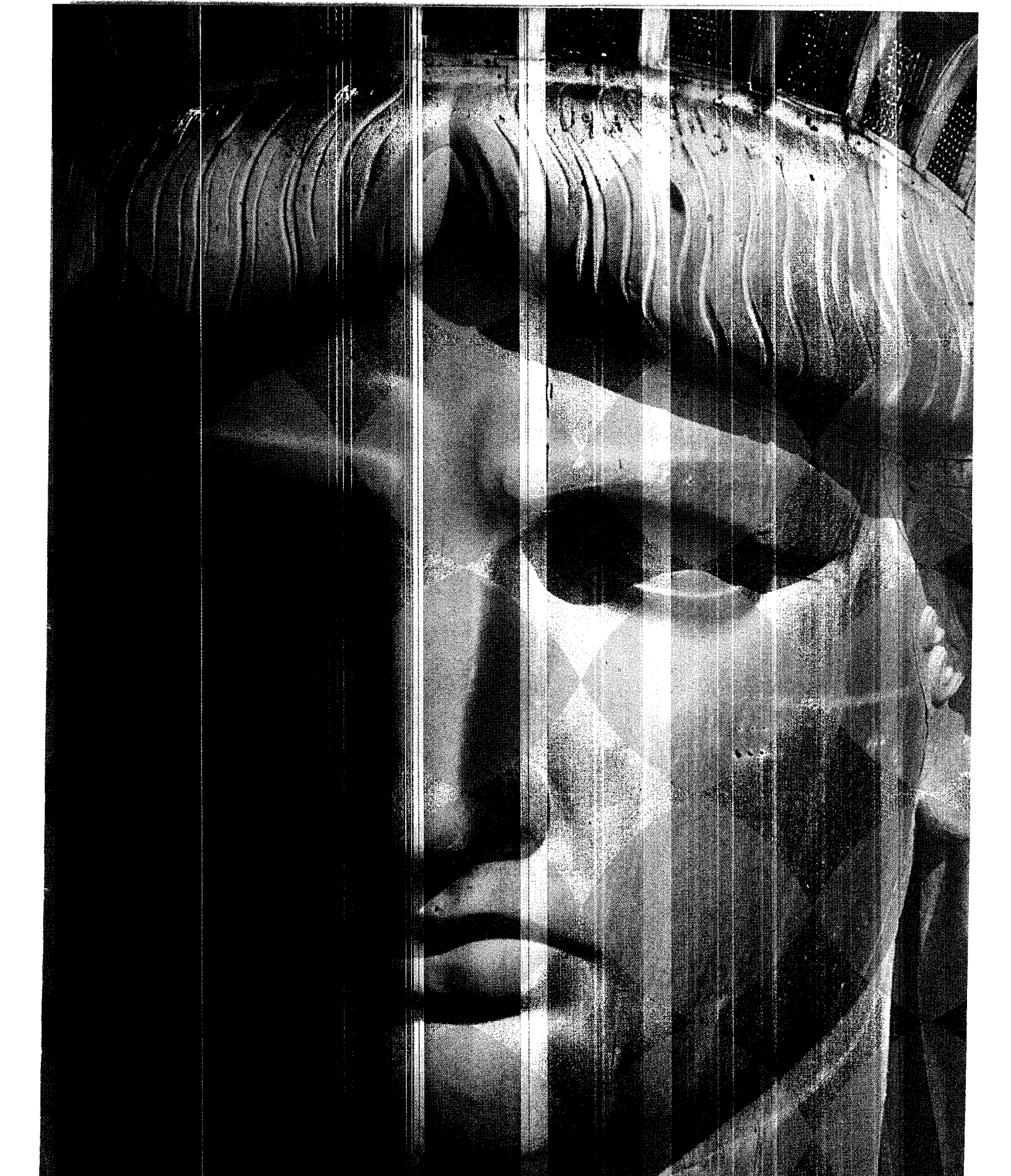
of news gathering and dissemination, given also the scale, the news is going to be, honestly and within human limits, factual. Whether it is a tabloid reporting a sensational murder or a network reporting a political coup somewhere, there is a trust that what is being reported (with the aura of authenticity not just of the printed word but of tape recordings and photographs) is factually true. And the contemporary American journalist aspires, in theory and as a professional matter, to meet that honorable, essentially moral expectation. The difficulty is that most facts, at least those with which journalism is concerned, are what they are; and, in spite of bromides to the effect that there is no such thing as objectivity in journalism, statements of fact are either true or not. Their implications, political and other, are, of course, another matter; but the “truth” of the facts in question tends to be unitary—tends, in an almost religious sense, to be one. No one disputes this with respect to those subjects on which so much of reporting, at all times, depends: the Yankees won on a certain day or they did not, and by a certain score; the people whose deaths are reported in the obituary section held certain positions and are dead, or not. Stock closing prices, earthquakes, invasions, election returns. It is only with stories of another kind that the unitary standard seems to waver and meditations about objectivity begin. The reporter, meanwhile, not only wants to find out and report the facts; as a competitor, he wants to report them before anybody else. And the difficulty with that form of competition is that once a journalist has been the first to publish certain “facts” amounting to a “story” all other journalists tend to go after the *same* story, wanting only to tell more of it, sooner. At the same time, there has arisen in the profession an almost unimaginable solidarity; it is exceptionally rare for a story in one publication to contradict, or even to take the mildest exception to, a story published in another. Whether by temperament, or for whatever other reason, whatever ri-

valry exists, however intense it may be, is the rivalry of a pack going essentially in one direction. There is simply no notion, for instance, among journalists of a counter-scoop—and journalists are notoriously vindictive when the work of any of their number is criticized in print.

For all these reasons, the press has become, over the years and without anyone's express intention, in at least three ways monolithic. At the same time technology has made it possible to gather and disseminate news on a scale and with a technical accuracy that the framers can never have contemplated, the public expectation is that the news will be politically unbiased, factually true, and, in that sense, one. As a competitive matter, each journalist considers it his obligation either to be the first on any given story or, failing that, to go after essentially the same story, only, as he would put it, in greater depth. And professional solidarity, which extends from “standing by our story” to refusing to contradict, or even question, anybody else's, has virtually eliminated the very diversity that it was the purpose of the framers, in the First Amendment, to protect. Before long, however—and particularly with the modern proliferation of bureaucracies, and their disaffected members—it began to seem that the best way to get a story first was to get it in secret, from a secret source. There has always been more than a superficial kinship between one sort of American spy, for the Central Intelligence Agency, say, or the military, and a certain kind of reporter. It lies in their preoccupation with “secrets,” and the notion that what is obtained in secret is somehow most surely true.

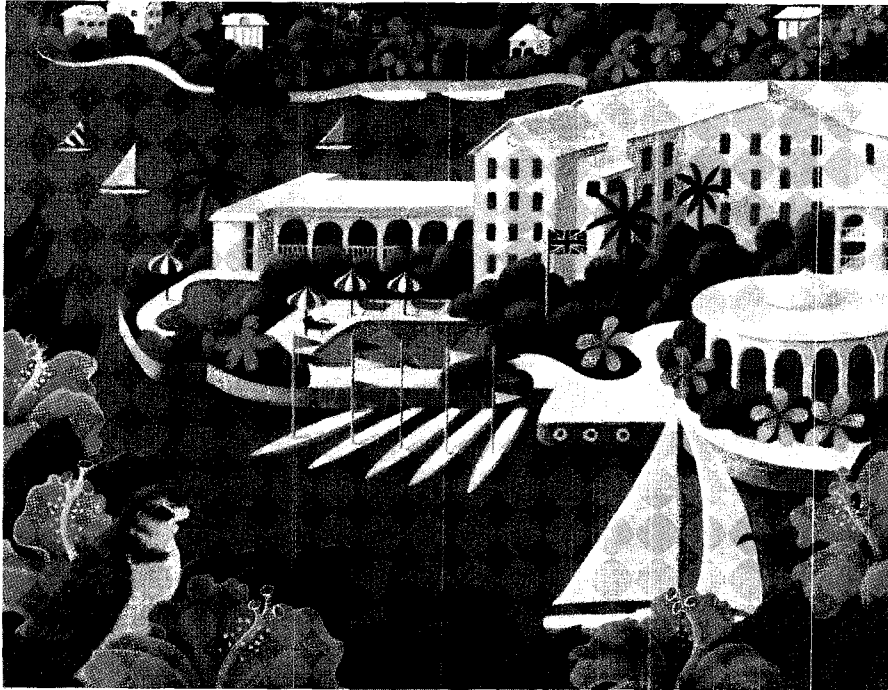
Here, then, was *Time's* predicament in the Sharon case. The paragraph at issue in the lawsuit appeared in a long article with the following byline: “By William E. Smith. Reported by Harry Kelly and Robert Slater/Jerusalem.” The paragraph had indeed been written, in New York, by William Smith, and was based on reporting, in a telex, by Harry Kelly, *Time's* Jerusalem bureau chief. But the information in the telex—the subject of “revenge” in a discussion between Sharon and the Gemayels and the purported inclusion of details of such a discussion in Appendix B; in short, the entirety of the alleged libel—came, it was revealed in the initial phases of discovery, from a correspondent not mentioned in the byline: David Halevy. And Halevy himself claimed to have received the





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information (actually, he made several widely different claims at his deposition and in his trial testimony) from what, no matter which of these claims one believed (or all, or any), amounted, under New York law and in modern journalistic practice, to a "confidential source." Under the New York Shield Law, reporters cannot normally be compelled to disclose the identity of such sources (or, at least, be held in contempt for refusing to disclose them); and the federal courts, ever since the great decision, in 1938, of *Erie v. Tompkins*, have been required, except in matters of procedure, to apply the law of the states in which they sit. A shield law for journalists, in the states where it does exist, can serve sound purposes. To report, for instance, on corruption in government or on the activities of organized crime, the press must be able to hear from people whose names, if disclosed, might cause them to lose their jobs, or even their lives. Any legal shield, however—and, otherwise known as "privileges," there are many "shields" in the law: the privilege against self-incrimination, for example, embodied in the Fifth Amendment; or the ancient privileged nature of communications between husband and wife—is ordinarily limited, as lawyers and the courts like to say, to use "as a shield, and not as a sword." A witness who takes the Fifth Amendment, for example, is not permitted to give any related testimony that would help his case; he must remain silent or he has waived the privilege. For journalists, this means that once they have invoked the shield, and refused to name a source, they are not normally permitted to say anything more, affirmatively, about him: in particular, nothing about how reliable he is, how well qualified, honorable, or highly placed. Since this nameless person will not be produced for cross-examination, or even for the jury to see and appraise him, or, for that matter, to confirm that he did say what the journalist who purports to quote him says he said, he cannot be used for any affirmative evidentiary purpose. The jury is not even obliged to believe that he exists.

In the peculiar circumstances of the Sharon case, however, so many shields of various kinds were invoked by both sides—the attorney-client privilege, which protects the confidentiality of communications between a client and his counsel; the work-product privilege, which protects work done by counsel in the preparation of his case;

diplomatic immunity; Israeli secrecy law; and, of course, the journalistic shield—that Judge Sofaer simply treated all shields and privileges as though they balanced, and gave Halevy great, in fact unprecedented, latitude in what he was allowed to say about the competence, status, and reliability of each nameless source.

On December 6, 1982, Halevy had sent, by telex, for inclusion in that week's "Worldwide Memo"—an internal publication of facts, gossip, and rumor, which *Time* distributes to its journalists and bureaus—what is known within *Time* as a Memo Item, which read:

GREEN LIGHT FOR REVENGE?

(HALEVY-JERUSALEM) The most crucial findings of the State Inquiry Commission investigating the Sabra and Shatila massacre might turn out to be the newly discovered notes which were taken during a conversation between Israel's Minister of Defense Arik Sharon and leaders of the Gemayel clan. Sharon came to the Gemayels' home village, Bikfaya, the morning after Bashir Gemayel was assassinated. He came actually to convey his and the Begin government's condolences. When Sharon landed at Bikfaya, he had with him only one senior intelligence officer, who went with Sharon to the meeting and took notes during the private session.

According to a highly reliable source who told us about that meeting, present were not only Pierre and Amin Gemayel, but also Fadi Frem, the Phalange Chief of Staff who is married to Bashir's sister. Sharon indicated in advance to the Gemayels that the Israeli army was moving into West Beirut, and that he expected them, the Force Lebanese, to go into all the Palestinian refugee camps. He also gave them the feeling, after the Gemayels' questioning, that he understood their need to take revenge for the assassination of Bashir and assured them that the Israeli army would neither hinder them nor try to stop them.

These minutes will not be published at all, in any form whatsoever, as they indicate a direct involvement and advanced planning by the Gemayel family, including Lebanon's president, Amin Gemayel.

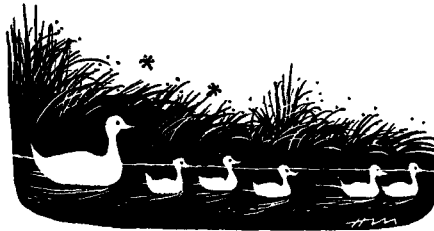
Two days later, on December 8, 1982, *Time's* New York office requested "clearance" for the Memo Item—that is, assurance from the correspondent or the bureau that the information in the telex was sufficiently reliable to be published in the magazine. Halevy, without, it turned out, checking or making any further effort to confirm it, cleared it. There are indications that *Time* planned to use the item, in some form, in a piece about Israel that closed on December 10, 1982, and appeared the following week. For whatever reason, *Time* did not use the item in December. On January 12, 1983, Halevy left Jerusa-

lem for an assignment in Central America. On February 8th, the Kahan Commission published its report. That afternoon, Halevy returned to Jerusalem to help with *Time's* cover story on the commission's findings. When Harry Kelly asked whether there was some way to find out the contents of the secret part of the report, Appendix B, Halevy replied that one thing it certainly contained was the information in Halevy's Memo Item of December 6, 1982. On February 10th, Kelly filed his story, including, in what became known as Take Nine of his telex, three paragraphs purporting to describe Appendix B. "And some of it, we understand," Kelly wrote, "was published in *Time's* Worldwide Memo, an item by Halevy, Dec. 6, for which we gave clearance." Kelly added an inference: that "part of the Commission's case against Sharon is between the lines, presumably in the secret portion" (Appendix B). The Memo Item thus became the basis of Take Nine, and Take Nine, in turn, became the basis of the paragraph upon which Sharon brought suit.

Nearly every element of this account was at some point, on deposition or at trial, contested. Halevy, for example, throughout the five days of his deposition, insisted under oath that the words "for revenge," in the headline of his Memo Item, "Green Light for Revenge?," were added by someone else to his own headline, which read simply "Green Light?" (On the witness stand, at trial, he abandoned this position, and added that he now considered the question of who wrote those two words "trivial" and "totally irrelevant.") Halevy also said, several times, in answer to questions at his deposition, that he left Israel for Central America on "December 12th," and in "mid-December"—to explain that in the rush of his departure, between December 6th, when he filed the Memo Item, December 9th, when he cleared it for publication, and December 12th, when he left for his new assignment, there would have been no time to check. There is an uncharacteristic hesitancy in Halevy's

deposition testimony about this; but there are so many anomalies about Halevy's entire deposition (and about every other deposition in the case) that opposing counsel does not seem to catch it. And Judge Sofaer himself, in his opinion and order denying *Time's* motion to dismiss and for summary judgment, cites the date of Halevy's departure from Israel as "around December 12th." At trial, however, Halevy reveals that according to his passport he left not on December 12th but on January 12th—which would have left him not six days but five weeks to check. Counsel somehow doesn't seem to catch this discrepancy, either.

Time, when it published the paragraph at issue in the case, did not, of course, have the benefit of Halevy's (or any other witness's) testimony under oath; nor could it possibly have anticipated the countless, inexplicable contradictions between any witness's sworn testimony at his deposition and at trial. And every publication, no matter how exacting its standards for the accuracy of what it prints, must have some degree of trust in its reporters. It may even be that most of what are called, in contemporary journalism, "investigative reporters," with their confidential sources, meeting in mythical garages (Deep Throat was mentioned, repeatedly and approvingly, by the defense), are inevitably a kind of rascal: the same capacity for ingratiation that works, on the occasions when it does work, on people who, for whatever reason, want to speak anonymously but for publication works equally on the editor who must gamble on the rascal, sometimes with valuable results. In contrast, for instance, with I. F. Stone, who worked from actual documents, and with a tradition extending back at least to Henry Adams and Charles Francis Adams, Jr. (whose "Chapters of Erie" remains one of the most systematic, courageous, and devastating pieces of investigative journalism ever written), the contemporary investigative reporter, with all his techniques of personal mystification, must often present an editor with a sort of quandary when he turns a story in. Still, from the moment the last deposition ended and the trial itself began, the situation was essentially this: that a serious news magazine, *Time*, and an enormous corporate edifice, *Time, Inc.*, was poised, like an improbable ballerina, on a single toe, David Halevy. And not even on Halevy himself but



on these "sources" (the "highly reliable source," of the original Memo Item, became, within the very first day of Halevy's deposition, "between eight and fifteen" sources; "I will say many," "I'll say less than fifteen and more than eight;" "yes, two prime sources. I don't recall if there were any more;" "but to be exact with you, I will say there were three prime sources"), whom no one else at *Time* claimed even to know. And the position was more precarious still. Because, in a professional development that seems, in retrospect, inevitable, Halevy had gone one further step. He claimed to have derived his information ultimately from official, forever secret documents: first, in the Memo Item of December 6, 1982, from the "newly discovered notes," or "minutes," of the meeting at Bikfaya; two months later, when the Kahan Report appeared, from its secret section, Appendix B. In other words, Halevy claimed for his account, or his sources' account, of the conversation between Sharon and the Gemayels the authority (in some ways exceeding the research of an I. F. Stone, a Charles Francis Adams) first of an exact stenographic record and then of the judicial finding of a court. Neither document, however, would ever become public. So the entire edifice of *Time* in this case was poised upon a single reporter claiming to have access to unnamed sources, who, in turn, had access to official documents, which would remain forever secret, and which supported *Time's* paragraph—or else did not.

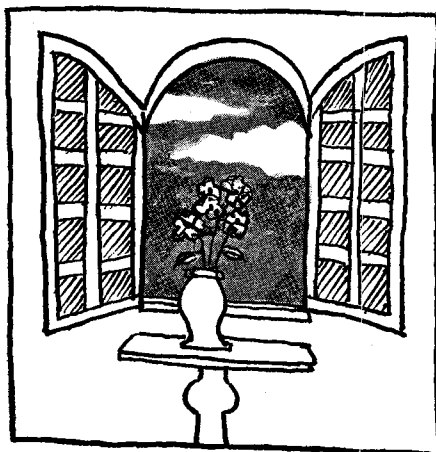
From a legal point of view, this odd situation was entirely to *Time's* advantage. The unavailability of these documents, no matter what they might have shown, certainly increased for Sharon the burden of proving, by "clear and convincing evidence," both that the conversation *Time* described did not occur and that the documents, particularly the one to which *Time* explicitly referred, Appendix B, contained no record of it. There was something, however, about this state of affairs, this pattern, that was reminiscent of a period long before "investigative reporting," in its present sense, came into fashion. Because it has by no means always been the case that, in its most clearly monolithic mode, the press has been antagonistic either to government or to power in any form. The press, rather, characteristically moves toward winners, turns on losers, and is particularly sub-

ject to the blandishments of men in power who claim both to rely upon agents or informants and to find the evidence for their subsequent accusations in a secret document. The comparison of Senator Joseph McCarthy is often called upon too easily and inappropriately. Without the press, however, solid, loath to contradict, the Senator could not have perpetrated, or even set in motion, that seemingly endless series of libels—based in significant part upon a "secret" document of sorts, the empty list of names. As the trial went on, and there were developments, including jury verdicts, unfavorable to *Time*, the press turned, briefly and mildly, but undeniably, as one, against *Time*, and even questioned some of its procedures; the magazine, and in an informal press conference its lawyers, seemed sincerely aghast, even hurt, at what was merely a characteristic gravitating toward winners and turning upon losers, and a temporary change in the direction of the phalanx (minus, in this instance, *Time*) that is the press.

From a journalistic point of view, if the secret documents *did* support *Time's* paragraph, and particularly the attribution of what "*Time* has learned" to Appendix B, the magazine's position would be vindicated—and the case, of course, would be absolutely and beyond question won. If, on the other hand, the documents supported not *Time* but Sharon, the Israeli government was clearly in no hurry to release them. There was not only the problem of providing access to state secrets, in what was, after all, private litigation; there was also the tendency of all nations to protect themselves against litigation of any kind, within the ancient doctrine of sovereign immunity. Moreover, the Israeli government currently in power had no incentive to advance the politi-

cal or other fortunes of Ariel Sharon—whom many considered dangerous for reasons having nothing to do with the specific issues of the trial, and who was also a potential rival of both occupants, in the current coalition, of the office of Prime Minister. Shimon Peres in particular, it emerged at trial, over heavy objections and in direct contradiction to testimony on deposition, even had cause to feel loyal to Halevy. In any event, from the outset of the trial there seemed every reason for all sides to pursue, or, at least, *appear* to pursue, any prospect of obtaining from the Israeli government such evidence relevant to the disputed issues as existed in the secret documents: Cravath because it believed either that the documents supported *Time* or, more likely, that the Israeli government was not going to permit access to them; Gould because he believed Sharon, who had read Appendix B, and who said he knew no official "notes" could record events that never happened; and, most important, Judge Sofaer, who not only sought the "best evidence" as a legal obligation but who also exercised an ingenuity almost unprecedented in American jurisprudence in drafting letters (with the express consent of both parties) that requested from the Israeli government access to that evidence, in a form admissible in an American court. From the moment Judge Sofaer sent his first letter, through diplomatic channels, to the Attorney General of Israel—in August of 1984, three months before he denied *Time's* motion for summary judgment and the trial itself began—a quiet, gradual, almost imperceptible thriller was under way. Would the Israeli government give access to whatever documents were relevant to the issues of the trial; what effect, if any, would events in the courtroom have on Israel's decision, either way; and if access was provided would this evidence support *Time's* case or Sharon's?

The reason this suspense was an undercurrent, rather than the central drama, of the trial is partly that the testimony and demeanor of living witnesses, and the courtroom manner and strategy of lawyers, are inevitably more riveting than an apparently dry exchange of letters between an American federal judge and officials of a foreign government. (Diplomatic channels, with the concurrence of the State Department, were almost immediately abandoned; the judge and counsel for both sides were communicating with



M. IAN

Israeli officials, direct.) Most journalists with any interest in the question had known, moreover, to a virtual certainty, within days of *Time's* publication of the disputed paragraph, that the magazine was completely wrong about Appendix B; but no reporter, after all, had actually *seen* the appendix, and (in an example of precisely that professional solidarity never contemplated in the First Amendment) none would have seen fit, even before the filing of the lawsuit, to rely on his own "sources," in flat contradiction to a colleague's, and to set the record straight.

Whatever it was journalistically, a mistake about Appendix B would not, in any event, lose the case for *Time*.

The "notes," or "minutes," to which Halevy referred, or any other source or document that revealed that Sharon had discussed with the Gemayels, at Bikfaya, or elsewhere, or with any other

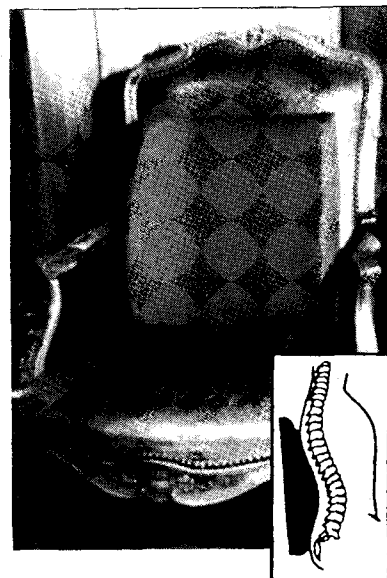


Phalangists, anywhere, "the need . . . to take revenge," would have been, for *Time's* case, sufficient. The libel itself, if libel it was, lay in reporting as fact the occurrence of the discussion. Attributing evidence of the report to Appendix B, a document not only secret but official, might aggravate the libel; but if the report itself, or something very like it, was true the location of evidence for it was incidental. Truth, regardless of an error about its source, or any insubstantial imprecision, was still an absolute defense. Thus, though all sides wanted the evidence, Sharon wanted it perhaps more fervently than *Time* did; but *Time* had hopes of its own (if not the appendix, then some document or other record, somewhere). And it would, in any case, appear awkward for a news magazine *not* to join in a court's request for information. As for the underlying thriller, it seemed until literally the final days of the trial that there would be no dénouement, that Israel would not, for whatever reason, permit access to the relevant documents in any form agreed to by the parties and admissible in an American court. "I really despair of that, Your Honor," Thomas Barr, of Cravath, said early in the trial, when Judge Sofaer suggested that Israel might provide such access; and less than a week before the case went to the jury the lawyers for both sides told the judge that they were preparing their summations on the assumption that access would be denied.

If *Time's* predicament had, at least initially, to do with inaccessible documents and unverifiable "confidential sources," CBS's predicament was in some ways the reverse. There were countless documents, and numerous sources, named and videotaped, many of whom were prepared, even eager, to appear on the witness stand. Intelligence-agency personnel, former military men—the difficulty was to show what bearing the documents had on any issue in the trial or to prove that any of these sources or witnesses had ever been placed to know the facts he was testifying to. As an intellectual and historical matter, the thesis that underlay "The Uncounted Enemy: A Vietnam Deception" was, of course, preposterous. It seems clear that in the history of warfare any country that has lost or been forced to withdraw from a war abroad (that is, not in

defense of its own soil) has, almost by definition, made the error precisely of underestimating enemy troop strength. The reason for the exception is that people have been willing knowingly to fight hopeless wars in defense of their homes. Normally, whatever the causes, nations go to war expecting to win. When that expectation turns out to be unfounded, they have obviously underestimated the strength of the enemy, relative, at least, to their own. It has been a kind of miracle of our recent history that in the wake of the bitter defeat in Vietnam there have been no recriminations and efforts to attach blame of the sort that followed, for example, our "loss" of China to the Communists. A television program, therefore, that claimed to find, fifteen years after the events in question, that the underestimate and the loss reflected a "conspiracy" was not only a considerable, apparently unconscious lapse into the old mode; in ascribing the leadership of the "conspiracy" to General Westmoreland, and including among its victims the President and the Joint Chiefs, it ceased to make even internal, superficial sense. What motive would a general have to *underestimate* to his commanders the size and strength of the enemy when his every interest and inclination would fall more naturally on the other side: to overestimate, in order to make whatever victories there were heroic and whatever defeats explicable, and to sustain a demand for more troops of his own? The motive, according to the program's producer,

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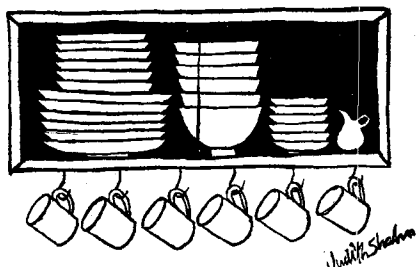
Crile, and its star, Wallace, among many others at various points, was "political." The election year, 1968, was coming up. Without the conspiracy to underestimate, the President would have lost. Since the President in the four months of 1967 and the one month of 1968 when the alleged conspiracy took place was Lyndon B. Johnson, General Westmoreland's "political" motive, then, to prevent this loss would have, theoretically, to be based on fear of some Republican dove, like Richard Nixon. And what conceivable motive to include President Johnson himself among the victims of such a conspiracy? No, even before the details, the distortions and misrepresentations (including answers spliced on to questions quite other than the ones they were answers to; persons misidentified to exaggerate their position, rank, and competence to answer specific questions; interviewees coached and rehearsed in the desired answers; and so forth), which had been touched on in the Benjamin Report but which emerged most clearly on deposition and at trial, it was obvious that the thesis, such as it was, did not bear even superficial scrutiny. In fact, the notion of Westmoreland as the arch-deceiver was so obviously implausible that Cravath tried early in the litigation to show that the alleged libel was not "of and concerning" General Westmoreland at all, since the phrase "a conspiracy at the highest levels of American military intelligence" could refer only to personnel who actually belonged to "military intelligence." Boies did not pursue this strategy at trial.

But an absurd defamatory thesis—even if it is presented at ninety-minute length, with drums and guns, old footage, music, misleading cuts, the whole arsenal of television's most overwhelming techniques for simulating the authentic—is not in and of itself a libel. Opinions are as clearly protected by the First Amendment as the truth itself is; and each of us is permitted to hold and to publish any number of preposterous views. Westmoreland, like Sharon, still had the burden of proving, "clearly and convincingly" (or by a preponderance of the evidence; federal law on this question is unsettled), not only that specific, defamatory factual statements about him were false but that they were made with actual malice; that is, with knowledge of their falsity, or reckless disregard whether they were false or not; that is, with serious doubt

whether they were true. Since so many "sources" supported the program's allegations, it was going to be awfully hard to show that, false though the program, even in its entirety, may have been, it was produced with actual malice (which Judge Leval, to avoid at least some confusion, preferred to call "constitutional malice") on the part of anyone at CBS. Not, perhaps, in the particular circumstances, impossible, but hard to overcome the defendants' argument that they could not have been in reckless disregard, because they had sources whom they did not seriously doubt. In libel cases, moreover, plaintiffs at once become, in effect, defendants—in the sense that lawyers for the actual press defendant, in what is called arguing in the alternative, will try to prove that the allegedly libellous statements do not say what the plaintiff says they say; or, even if they do say what he says they say, they are literally true; or, even if they are not literally true, something similar but incomparably *worse* is true about the plaintiff than what the alleged libel said. The program included interviews with eight people who fell more or less in line with its thesis about Westmoreland; one person (at a length of about twenty seconds) who did not; and Westmoreland himself (portrayed mumbling, unprepared, stammering, and incessantly licking his lips). David Boies, a particularly aggressive litigator even within Cravath, not only elicited from some of the eight witnesses sworn testimony incomparably stronger and more flatly anti-Westmoreland than their statements on the broadcast; he produced many other witnesses to the same effect. His ambition, set forth in his opening statement, was nothing less than to rewrite in court the whole history of the war to conform with what the broadcast said "CBS Reports has learned." He did not, from a legal point of view, need to prove truth; he could not, as a factual matter, prove truth; but with broad attacks and massive depositions he was going to try to. And there remained throughout the trial the almost imperceptible difficulty

that, with two arguable exceptions, none of the defense witnesses were able to testify from personal knowledge that any ceiling on estimates of enemy troop strength existed, or could remotely be imputed to Westmoreland.

If the Sharon case became a kind of thriller, the Westmoreland case became whatever the droning opposite of a thriller might be. Since much of the trial had, of necessity, to do with dates and numbers (months of 1967 and 1968, number of enemy troops); and since hours, on many days, were occupied in bench conferences between Judge Leval and the attorneys, at the sidebar, outside the hearing of the jury (but recorded, obviously, in the official transcript), the trial seemed at times to approach an order of tedium characteristic precisely of anti-trust cases—which do not seem to unfold in mortal time, and in which no recognizably human issue appears to be at stake. On a not untypical day, November 29, 1984, Boies asked Westmoreland, for example, on cross-examination, a series of questions that began, "Now, the March 25 PERINTREP, which is Exhibit 199A . . .," continued, "And it is indicated here that that estimate of 113,087 . . . represents a reduction of 405 from the previous month, correct, sir?," continued further, "And if you added 405 to 113,087, what would you come up with, sir?" To which Westmoreland, perhaps understandably, replied, "Say again, now? Added what, now?" Five questions later, in reply to "And am I correct that adding 113,087 and 405 you come up with 113,492?," Boies elicited the answer "Yes." More than a hundred questions later, Boies having posed in various ways questions about "probable and possible" infiltration rates for the months of September, October, November, and December of 1967 and January of 1968, Judge Leval interrupted to suggest that the jurors be given a copy of the figures. Boies distributed copies of a document to the jury and asked Westmoreland, "Do you have the pending question in mind?" Westmoreland said, perhaps again understandably, "I would like it repeated." Whereupon Boies said, "Sure," and did repeat: "This infiltration estimate . . . shows total infiltration, including both possible and probable, estimated as 6,300 for September, 4,300 for October, 5,900 for November, 5,300 for December, and 21,000 for January, 1968, correct?" The entire sequence ends, "I am in no position to answer that question."



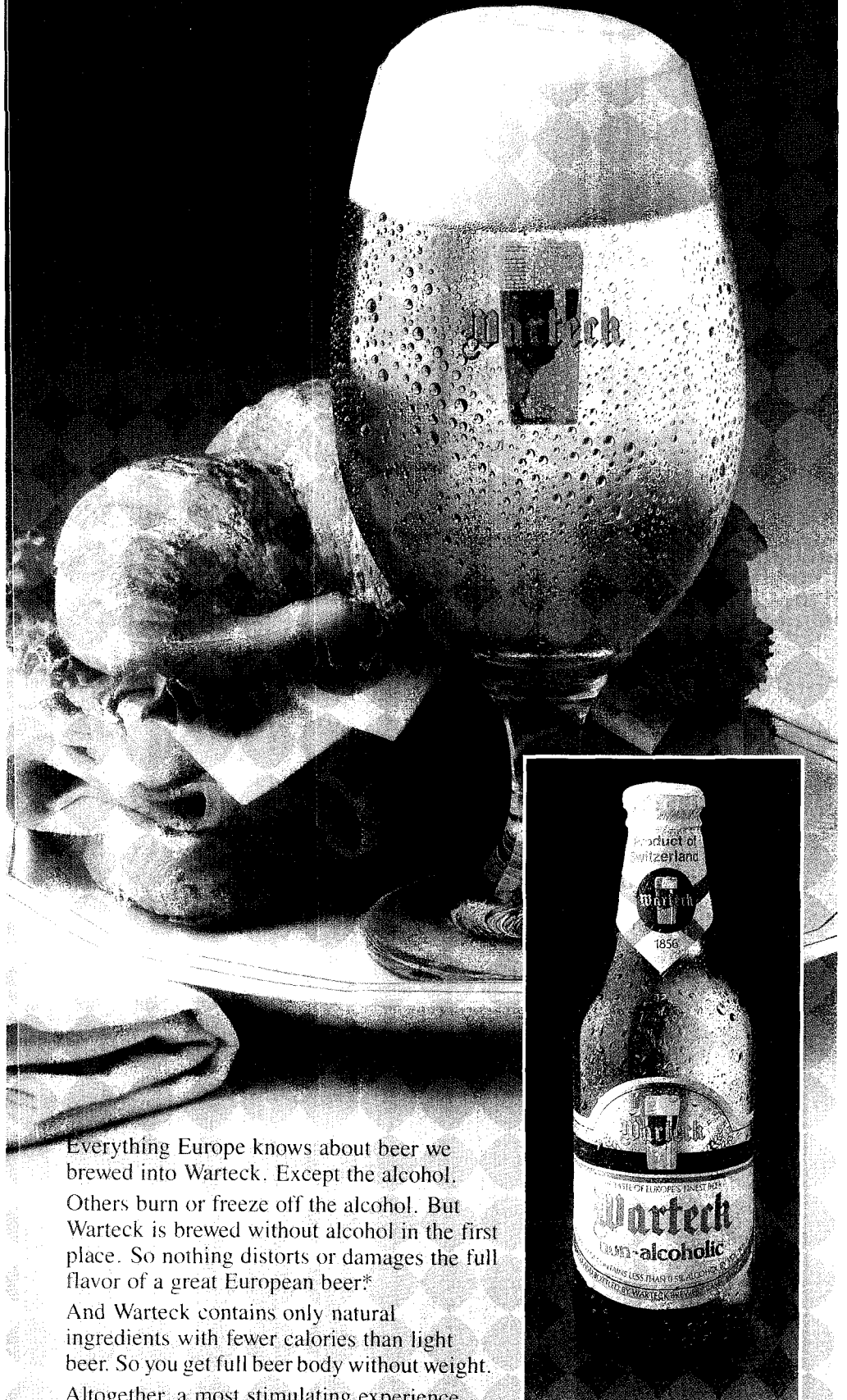
THE NEW YORKER

What the jurors, with their yellow pads, or anyone, can have made of this is far from clear. On the other hand, Westmoreland's very first answer to the very first question posed to him as a witness had also to do with numbers, and seemed to reveal something personal, and perhaps odd, about the plaintiff, the adult, the former general, on the stand. Asked by his own attorney "General Westmoreland, how old are you, sir?" he replied, "I am seventy and one-half."

A REMARKABLE feature of both trials, Sharon in Room 110 and Westmoreland in Room 318, was that both plaintiffs and all the defendants regarded themselves as simultaneously heroic and aggrieved. *Time* knew (or, at least, its lawyers did) as soon as it saw the completed depositions of its own witnesses—Duncan, the chief of correspondents; Smith, the writer; Kelly, the Jerusalem bureau chief; and several others, including Halevy—that there was so far no evidence whatever for its paragraph. It had not, of course, known this at the time of publication. In fact, in the course of Kelly's deposition it emerged that Halevy had told Kelly, at the time of Halevy's Memo Item of December 6, 1982, that Halevy had actually read the notes, or minutes, of the conversation at Bikfaya and that his sources had confirmed, the following February, that the substance of the notes, and of the Memo Item, appeared in Appendix B. At his own deposition, Halevy refused to say whether he had read the notes or not, claiming repeatedly that to answer either way might "disclose the identity of the source." The sacred, Delphic, oracular nature of sources was invoked, with a kind of gravity, by several witnesses in declining to answer questions; but this claim of Halevy's was hard to understand. If he had seen the notes, of course, his answer might reveal the identity of the source who showed them to him. If he had not seen them, however, the source who had not shown them to him might be anyone in the entire world. Halevy did not exactly contradict Kelly's testimony ("His recollection . . . is ten times better than mine;" "I thought that Mr. Kelly gave you too much information"), but in refusing to confirm or deny that he had seen the "newly discovered" notes, or minutes, Halevy was evidently trying to imply that he had seen them, when in fact (as emerged more clearly in his testimony at trial) he had not. *Time*

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knew at the close of depositions what sort of witness it had in Halevy, and in all the members of its staff who testified. And yet it chose, at great expense of time, and money, and moral energy, to stand by its story that Sharon had discussed with the Gemayels, on the eve of the massacres at Sabra and Shatila, the subject of revenge. The reason *Time* thought itself aggrieved was simple: it was being sued, and, like any other litigant, it had to undergo the ordeal of discovery and trial. The reason it considered its role heroic was less clear. A customary argument of the press (and, more significantly, of libel lawyers) in libel cases is that any retreat from a story as originally published puts in jeopardy the entire First Amendment and threatens the integrity of the entire press—including, in particular, the little publications, unable to defend themselves. One difficulty with this argument is that large publications, and, of course, television networks, are both rich and insured for vast amounts—which is why all libel lawyers are defendants' lawyers; there exist no plaintiffs' libel specialists. Small publications are not. So that even if all large publications were to win their cases small publications would be in no way protected. Rich libel plaintiffs could still sue them and ruin them on legal costs alone. There exists, of course, no reason why the law should not evolve to establish different standards for small than for large publications. What is "reckless disregard," for instance, on the part of a global, technologically advanced medium, with large resources for checking, might not be "reckless disregard" on the part of a small publication, with a little staff. As for the entire press and the First Amendment, it is hard to see how either can be served by all-out legal advocacy of stories that are false. But *Time* believed its story was not false, and stood by it.

Westmoreland and Sharon felt themselves aggrieved, obviously, by what each maintained was the initial libel, and heroic for taking on the almost insurmountable burden of proving that the stories about them were, clearly and convincingly, false; and were published, clearly and convincingly, with actual malice. As for CBS, it shared *Time's* view. They were represented, after all, by the same law firm; and Cravath's libel specialist, Stuart W. Gold, participated in writing the motions and legal briefs for both. In addition, however, CBS's

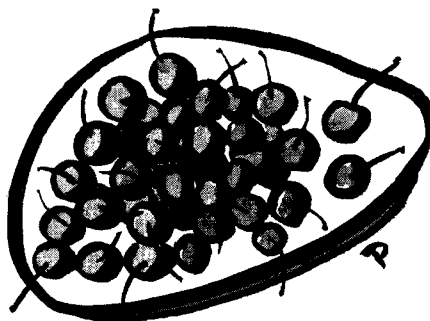
witnesses and, to a lesser extent, its chief counsel, Boies, felt that they were taking on the war in Vietnam. The genesis of the program itself had been, roughly, this: In August of 1966, Samuel A. Adams, a young intelligence analyst in the C.I.A., had concluded, on the basis of a visit to Vietnam and some monthly summaries of reports derived in part from captured enemy documents, that the military's estimate of enemy troop strength was too low; his "extrapolation" from the monthly summaries led him to believe that the correct figure for total enemy troop strength was not the 297,000 estimated by the military but 600,000. His arguments were not accepted within the C.I.A. They were not accepted, either, at a conference in late 1967, in Saigon, between military intelligence analysts and analysts from the Defense Department and the C.I.A. Adams, a 1955 graduate of Harvard, came to believe that his arguments were rejected as a result of a conspiracy. In 1973, he testified in defense of Daniel Ellsberg; but, for various reasons, which emerged at the Westmoreland trial, he kept his estimates of enemy troop strength vague. In May of 1975, Adams, no longer with the C.I.A., published in *Harper's* an article entitled "Vietnam Cover-Up," which was edited by George Crile, then an editor at *Harper's*. The thesis of the article was summed up in its subtitle, "A C.I.A. Conspiracy Against Its Own Intelligence." In September of 1975, Adams testified before the House Select Committee on Intelligence, the Pike Committee, in its investigation of American intelligence; but, again, for various reasons, he kept his testimony about estimates vague. For a time, it emerged at trial, Adams had tried to bring Westmoreland to trial for violations of the Uniform Code of Military Justice; and for some years he had been compiling what became known as his "chronologies," and "list of sixty" (actually, eighty), which consisted of handwritten notes of interviews, and plans for interviews, with eighty people who might shed light on his thesis of a conspiracy or a "coverup" in Vietnam. Adams was planning to write a book. By 1980, however, George Crile had moved to CBS, where he had participated in the production of several documentaries. By November 24, 1980, Crile, with Adams' help, had written what is called at CBS a "blue sheet," a proposal for a program. The blue sheet was sixteen pages, typed,

single-spaced; it mentioned the word "conspiracy" twenty-four times and the word "conspirator" five times. Crile's proposal, for a ninety-minute broadcast, with Adams as a paid consultant, was approved by CBS News executives, on condition that Crile could produce interviews with people who would support his thesis. Crile and Adams selected people from Adams' list. A year and two months later, heralded by network commercials and full-page ads, all of which used the word "conspiracy," "The Uncounted Enemy: A Vietnam Deception," produced by Crile, with interviews by Mike Wallace and Crile himself, was on the air.

JUST inside the main entrance, at the top of the broad granite steps of the federal courthouse on Foley Square, the briefcases, parcels, and handbags of all plaintiffs, defendants, attorneys, reporters, and spectators are checked electronically for weapons, on a conveyor belt of the sort used for security checks at airports. Outside Courtrooms 318 and 110 during Westmoreland and Sharon, there were federal marshals watching over the sort of electronic arch through which passengers pass before boarding their flights. In one of the rows on the left of Room 318, Mrs. Westmoreland, known to hawk and dove alike as Kitsy, sat each day, in bright sweater and skirt, working on her needlepoint. Mrs. Sharon, who sat in the front row of Room 110, worked on her knitting, but only in a robing room set aside for the plaintiff in that case. The courthouse has many floors and many rooms; but from October 9, 1984, to February 19, 1985, there were few indications that, elsewhere in the building, cases of in some ways more immediate seriousness were going on. The elevators in the courthouse are few and, even for a federal building, inordinately fickle and slow, so that anyone who could would be inclined to avoid them. On one particularly cold morning, about a dozen Oriental men

seemed to be exercising a new extreme of courtesy in entering an elevator that had at last arrived on the first floor. As each young man (and they were all young) passed through the doors, the doors would close, literally, upon him; but none raised a hand to ward them off. Each waited to be released, and then stepped inside while the elevator doors closed upon the next. Quite a while passed in this apparently curious ritual, until someone recalled that the newspapers, two days before, had mentioned the arrest of thirteen alleged murderers and gang enforcers for the tongs; and that no one raised his hands against the doors because all of them were in handcuffs. But such intrusions by matters of local, recent, immediate consequence in life and death were rare. Meanwhile, particularly in Room 318, people followed the most arcane, and even unintelligible, testimony with the intensity of fanatics.

This quality of attention seemed to exist even in the Westmoreland jury. Since the "conspiracy to deceive," if it did exist, would consist of two deceptions—arbitrary removal from the Order of Battle of all village self-defense units and other irregular supporters of the Vietcong, and deliberate understatement of the rate of infiltration of North Vietnamese soldiers into South Vietnam in the five months preceding Tet—which, when combined, would constitute the grand deception (a false and arbitrary ceiling on estimates of enemy troop strength, to keep the figure below three hundred thousand), almost all the testimony in the case, particularly testimony that addressed dates and numbers, lacked drama, lacked narrative, lacked, the more one thought about it, any reality at all. And yet on January 7, 1985, the jury complained to Judge Leval of "noise" (two reporters, as it turned out, talking) in the third row on the right. Two weeks later, after a heavy snowstorm that put several subways out of service, a juror called the judge's chambers—sobbing, because she had somehow become stranded in a station in Hoboken and would be more than an hour later than the others. With the agreement of counsel, Judge Leval agreed to delay the trial till she arrived. The level of education in both juries was, for New York, unusually high, but not *that* high. On December 5, 1984, the first day of Crile's testimony, Judge Leval received from the jury a note saying that Juror No. 10 had "threwed out" three times, on account of the chicken soup at lunch. The



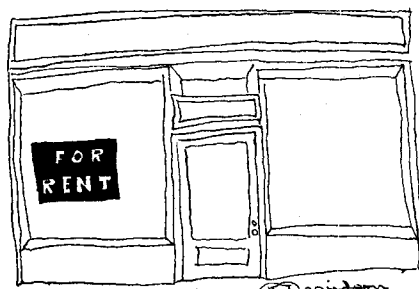
jurors, with their legal pads, were not, in other words, pedants or scholars. But the intensity of interest was greatest by far on the part of members of the most radically anti-war factions of the press. When I asked one of the best of these reporters why he attached such immense importance to the question of whether or not village defense and self-defense units were included in the Order of Battle (a technical matter, it seemed, since when they were not included they were simply listed separately), he replied that the whole point lay here: that the trial would show the world that American imperialism was fighting not an army but a whole people in that war. Like the ideologues on the other side, who thought that Westmoreland's chief counsel, Burt, was right in predicting that the trial would bring about the "dismantling of a major news network," for having undermined American morale and thereby lost the war, the reporter seemed not to have considered the fact that, no matter what the jury decided, the trial would have a politically ambiguous result. If CBS was right, for example, and Westmoreland had lost the war by deceiving his military superiors and his civilian Commander-in-Chief, then the Commander-in-Chief, President Johnson, was inescapably exonerated from responsibility both for the escalation of the war and for its loss. Since there have been, so miraculously, no witch-hunts, as there were in the late forties and early fifties, there may be no serious harm in exonerating President Johnson, and attaching blame to General Westmoreland, if that is what the left, at this moment in our history, wants to do. But what follows from it, as from Boies' position at the trial, and from CBS's position in the program, is that no blame attaches to the very civilian, capitalist, democratically elected Administrations that the left would ordinarily want most to blame. As for the question of including the grandmothers and the children who were members of village self-defense units (or, for that matter, any civilians whose sympathies were with the Vietcong) in the enemy Order of Battle, if the program was right and Boies was right, that these grandmothers and children *must* be included in the Order of Battle, the inescapable conclusion is that these people were in fact army. And if they were army, and enemy army, the opposing army is hardly to blame for trying to kill them before being killed by them. And the argu-

ment from My Lai, in all its ramifications, starts to dissolve. If CBS was right, then these "civilians" were Order of Battle soldiers, and what appeared to be an indiscriminate massacre of noncombatants becomes more like an act of war. So there was nothing to be gained by either left or right in the outcome of the case. And what was, oddly, never mentioned by either side, in the ninety-minute broadcast, in the months of trial, or at any time before or since, was that all that was at stake were *estimates*. Not facts. Not counts. Not commandments graven in stone. But "estimates;" the word, like "source" in the other trial, was used as though it meant something either sacred and talismanic or solidly professional, like the words proper to a science. The tragedy, one tragedy, anyway, was that the estimators *did not know* what was the strength of the enemy in Vietnam. President Johnson, as became clear (if it was not clear before) in the course of the trial, and the Joint Chiefs knew as much as General Westmoreland and all the intelligence bureaucracies combined knew. The rate of enemy infiltration, for example, was monitored, electronically, by what was referred to throughout the trial as Source X (the National Security Agency), which was based in Washington. General Westmoreland not only did not, he *could* not suppress those reports, which reached the Pentagon and the White House before they reached Saigon. Judge Leval, in one of the few arguable rulings in the course of the whole trial, ruled that what Johnson knew was not the issue; the issue was whether Westmoreland had intended, no matter how unsuccessfully, to deceive. There is evidence even in the memoirs of Truong Nhu Tang, a founder of the National Liberation Front and Minister of Justice of the Vietcong, that the President's, the Joint Chiefs', and Westmoreland's estimates of total enemy troop strength, including irregulars, and their appraisal of the military results of Tet were more accurate than those of the

defense witnesses, including, of course, Samuel Adams. But Truong Nhu Tang was mentioned nowhere in the trial—though the defense several times quoted, of all people, General Nguyen Cao Ky. And an "estimate," particularly on the basis of facts and procedures relied on by witnesses for both sides (as the lamentable quality of the military and civilian intelligence bureaucracies emerged, almost imperceptibly, at trial), is only an estimate. If the stated thesis of the broadcast, however, had been that Westmoreland led a conspiracy to alter and suppress suppositions and not very educated guesses, there would have been no broadcast; or, even if there had been such a broadcast, there would have been no suit.

EARLY in the afternoon of Thursday, July 12, 1984, two American attorneys, each a partner in a major New York law firm, appeared at the offices of Maître Michel Distel, on the Boulevard Saint-Germain in Paris. With them they had brought Martha Hess, a certified shorthand reporter and notary public of the State of New York, and Patricia Kinder, a French interpreter, who was duly sworn. The attorneys and Ms. Hess had flown in from New York to take the deposition of one Josette Alia, a journalist and editor of the French weekly *Le Nouvel Observateur*. Ms. Alia having also been duly sworn, there ensued approximately five hours of wonderfully absurdist colloquy, with the two attorneys, counsel for opposing parties, at odds not only with each other but also with the interpreter, who could not resist interjecting her own views from time to time, and even with a person, identified only as "Claire Senard," who seemed, according to peripheral testimony midway through the deposition, to have served as translator between one of the attorneys and Ms. Alia in a meeting at the Bristol Hotel. Even this person, who had not been sworn, spoke up at one point to correct either the interpreter or Ms. Alia—until, the attorneys having agreed that there could be only one "official interpreter," she was duly silenced.

The official interpreter, meanwhile, was frequently and clearly in distress. Asked to translate Ms. Alia's responses exactly, saying "I," for example, when Ms. Alia said "I," the interpreter lapsed frequently into "she." Admonished, at one point, not to make speeches of her own but to translate



all, but only all, that she heard from Ms. Alia, the interpreter said, "Surely, but what I am trying to elucidate is what Madame means by the word 'almost.'" When one attorney asked her, in the most tactful terms, only to interpret, and to leave "elucidation" to the attorneys, she replied somewhat huffily. "When she is vague, I will be vague," she said. Shortly after that, however, the official interpreter apparently felt compelled to speak up again. "May I make one small point," she said. "I would hate myself to be caught on the hot and find my own language in five or six weeks' time to be found on the table." The attorney, apparently unfazed by this utterance, said, "We all understand that, and we want to avoid that very thing." Later still, the interpreter said, "Madame says she doesn't understand what you are talking about." An attorney interrupted. Ms. Alia, meanwhile, said, "Of course I do." Sometimes, in addition to a clear antagonism between the two attorneys ("Rich, try to control your mouth," one attorney said, for example, to the other), there was tension between both attorneys and Ms. Alia over differences between French and American law, or even what constitutes a "defendant," a "judgment," and a "trial." In the course of what, with various breaks and discussions off the record, came to occupy a hundred and three pages of official transcript, Ms. Alia asserted thirty-nine times, in various ways, and in response to several kinds of questions, that she did not, could not, and never would divulge her sources. Almost any sort of question might elicit this reply. Asked, for example, whether she had actually listened to a particular phone conversation, not directly but on tape, Ms. Alia said, "I can't answer that question. That is information which if I gave to you would enable you to find out who gave me that information." Obviously, if Ms. Alia had *not* listened to the conversation her answer would enable no one to find out anything of the kind. An admission to not having heard something can hardly reveal the source from whom you heard it. So the clear implication of Ms. Alia's answer is that she had listened to the conversation in some form. Since the phone conversation in question took place, however, between a head of government and his minister of defense, and since, in an article published in the November 6, 1982, *Nouvel Observateur*, Ms. Alia had

been wrong about both the time and the content of the conversation, this implication would appear to be misleading. But to the very next question, "If you tell me whether or not you listened to a tape—just yes or no—would that reveal your source?," Ms. Alia replied serenely, "Yes, of course."

The deposition of Josette Alia was the second (the first was of Sharon himself) in the case that became *Sharon v. Time*. The attorneys were Thomas Barr, of Cravath, Swaine & Moore, for *Time*, and Richard M. Goldstein, of Shea & Gould, for Sharon. (Milton Gould was critically ill during most of the year when the case was being prepared for trial. Barr, too, became intermittently seriously ill. Both made complete recoveries.) Ms. Alia was never called as a witness, and her deposition was unusual even for the expensive, wasteful, disingenuous, tedious, and ultimately absurdist process that is the modern American legal deposition. The purpose of depositions, as of the other methods of "Discovery," under Rule 26 of the Federal Rules of Civil Procedure, is to enable each party to obtain from the other, before trial, information "regarding any matter . . . which is relevant to the subject matter involved in the pending action"—so that each side will have access to the witnesses and the evidence that the other might present at trial, either to avoid trial (because there is no case) or to facilitate settlement (because the contours of the case are clarified) or to expedite the trial if the case does come to court. Depositions are ordinarily taken, and paid for, by the "hostile" party, and only the "hostile" party may introduce a witness's deposition testimony in court. An attorney for the side on whose behalf the witness will appear is also present, to "defend" the deposition. Each deposition, therefore, entails the presence of one witness, at least two attorneys, and a certified reporter, who administers the oath and makes the stenographic record, before the expenses for travel, and for extra attorneys (if the client can afford them, or if the case involves more than two litigants, or if a witness other than the litigants requires the presence of his own attorney) and (as in the case of Ms. Alia) an official interpreter are reckoned in. Sworn testimony on deposition has, theoretically, the same weight, and is subject to the same rules with respect to perjury, as testimony at

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trial. But the depositions in a given case amount at best to a sort of rehearsal, or mini-trial (with voluminous records, at considerable expense), composed essentially of mini cross-examinations, which the real trial either repeats or (in the case of dishonest or bewildered witnesses), contradicts. Attorneys make much of these contradictions—and, as part of the completed record of a trial, they sometimes reveal with an extraordinary clarity who is telling the truth and who is not. But juries rarely pay much attention to deposition testimony introduced at trial, and confine their deliberations to what the witness said, and how credible he appeared to them, upon the stand. At worst, depositions, more than the other forms of discovery (sworn affidavits and document production, which do not require the presence of witnesses and paid attorneys), are the rich litigant's best instrument for harassment, obfuscation, and delay.

One completely incidental effect of depositions, however, is to make most civil trials oddly unsuitable to coverage, on a daily basis, by the press. Criminal trials do evolve from day to day; but in most civil trials the record is for the most part already in, and the only persons to whom it unfolds each day are the spectators—and, most critically, the jury. The litigants know in advance almost everything except how opposing counsel will proceed, how the judge will rule on various questions, and what the jury will decide. It was a misunderstanding based on the nature and the demands of daily reporting that led, for instance, to the story, in newspapers all over the world, that the outcome of the Westmoreland case was determined by Westmoreland's surprise and dismay at the testimony, on the stand, of two intelligence officers, one a fellow-graduate of West Point. The outcome, a "Joint Statement" signed by Westmoreland and all the CBS defendants with the remarkable but scarcely noticed exception of Samuel Adams, was undeniably strange. But it had nothing to do with Westmoreland's reaction to testimony of any kind. He knew in substance, from what both witnesses said at their depositions, what they were going to say. Indeed, Boies quoted extensively from one of them in his opening statement, on the second day of trial.

In both *Sharon v. Time* and *Westmoreland v. CBS*, the plaintiffs were able, through Shea & Gould and the Capital Legal Foundation, to meet the

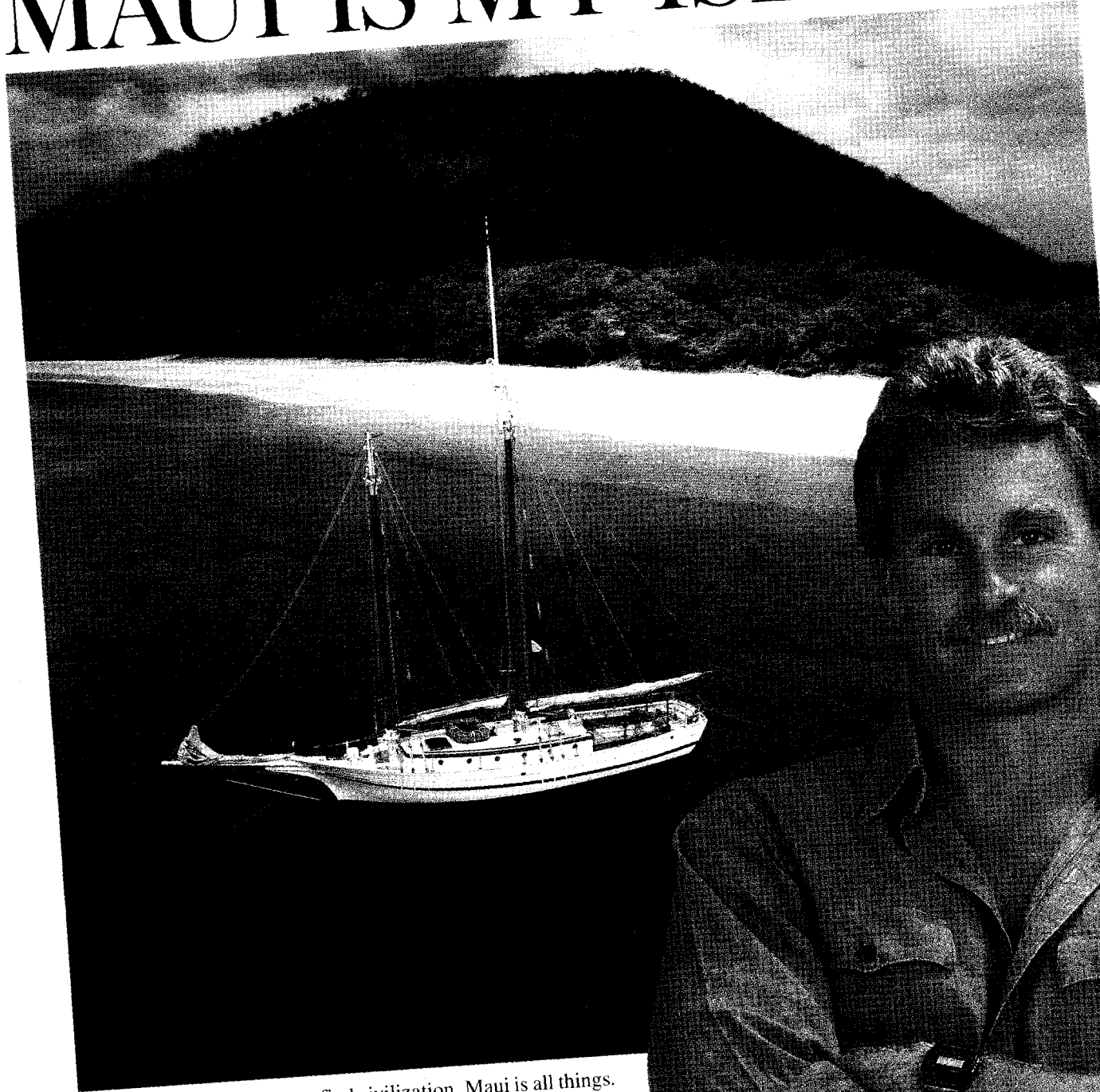
deposition costs. One fact about both trials, however, explains why Barr should have troubled even seriously to consider as a witness, on *Time's* behalf, Ms. Alia, of *Nouvel Observateur*. In spite of any special affinity the Cravath attorneys might have with their media clients, and in spite of trying to prove that more than what was published or broadcast by their clients was true, in certain respects what the lawyers would want to prove and what their clients would want to claim were inescapably at odds. CBS and *Time* might, for the litigation's sake, oblige Cravath in its argument that the alleged libels were not "of and concerning" the plaintiffs at all; and, though the argument was abandoned early in Westmoreland, every single witness who contributed to the story in *Time* testified that he read and, depending on his contribution, composed, edited, or wrote the offending paragraph as "of and concerning" not Sharon at all but Amin Gemayel. Even a cursory reading of the paragraph, and particularly the sentence beginning, "Sharon also reportedly discussed with the Gemayels the need . . . to take revenge"—with its clear grammatical construction: subject, verb, indirect object, object—might make this position difficult to sustain. *Time's* own press release heralding the story included the words "Sharon" and "urged." But defense lawyers are not grammarians or practitioners of textual criticism. And every *Time* witness who had anything to do with the paragraph as published—from Halevy, the reporter, through Kelly, the bureau chief; Helen Doyle, the fact checker; William Smith, the writer; and Richard Duncan, the chief of correspondents—dutifully testified, under oath, that he or she had always understood what little news there was, if any, in the whole passage beginning "*Time* has learned" to concern not Sharon himself but some entirely other person, a Phalangist, if not Amin,

then some other Gemayel. So far, it seemed, attorneys and press client could agree. More difficult to reconcile were *Time's* journalistic interest and a position most helpful to its lawyers: that the story and, particularly, the paragraph at issue *were not news*. If they were not news, if everyone had known for some time that Sharon discussed revenge with the Gemayels, then there was no libel—or, at least, there would be great difficulty in proving actual malice. Far from publishing, for instance, with "reckless disregard," *Time* had simply repeated what was common knowledge, information that had already been published elsewhere, which it had no reason seriously to doubt. And that is where Ms. Alia came in. Because she had published in the *Nouvel Observateur* of November 6, 1982, more or less the same sort of story that appeared the following February in the paragraph in *Time*.

How radically this contention violated every natural journalistic instinct, particularly Halevy's pride in his own "scoop," is revealed at virtually every stage of deposition and trial testimony on this point. On the one hand, *Time* and its attorneys felt that they had to argue that the paragraph was investigative reporting of the highest order, which could not have been obtained without Halevy's confidential sources; on the other hand, they had to claim that they had relied upon information already published, of which they had no serious doubt. Whether a witness in a lawsuit accurately reflects the person outside the courtroom can never really be known; but Halevy, at least in his capacity as a witness, was not a self-effacing man. To a question, on September 25, 1984, the fifth day of his deposition, whether he had ever in his journalistic career published a story that turned out to be untrue, he replied that he recalled no such event; and "To the best of my knowledge, all my information, in fifteen years of reporting out of Israel, out of the Middle East, and out of other parts of the world, all my information I gave to *Time* magazine, all my stories, all my cables, all my ideas, and all my suggestions, were accurate, were ahead of time, were on top of the story, and were exact." There followed what for any other witness might be a particularly awkward colloquy, about an episode, in October of 1979, when five "sources" Halevy claimed for a story about Prime Minister Begin's health so con-



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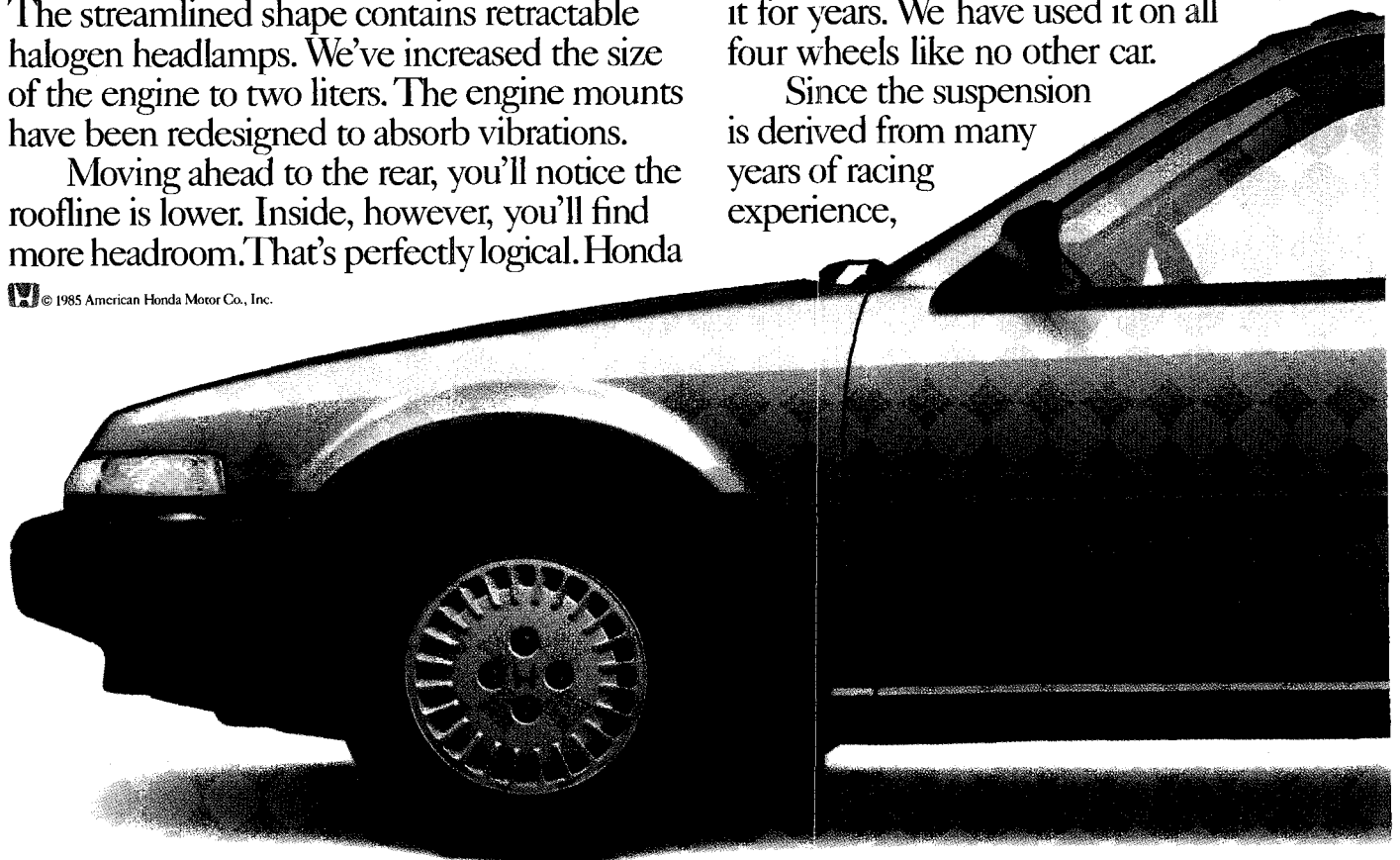
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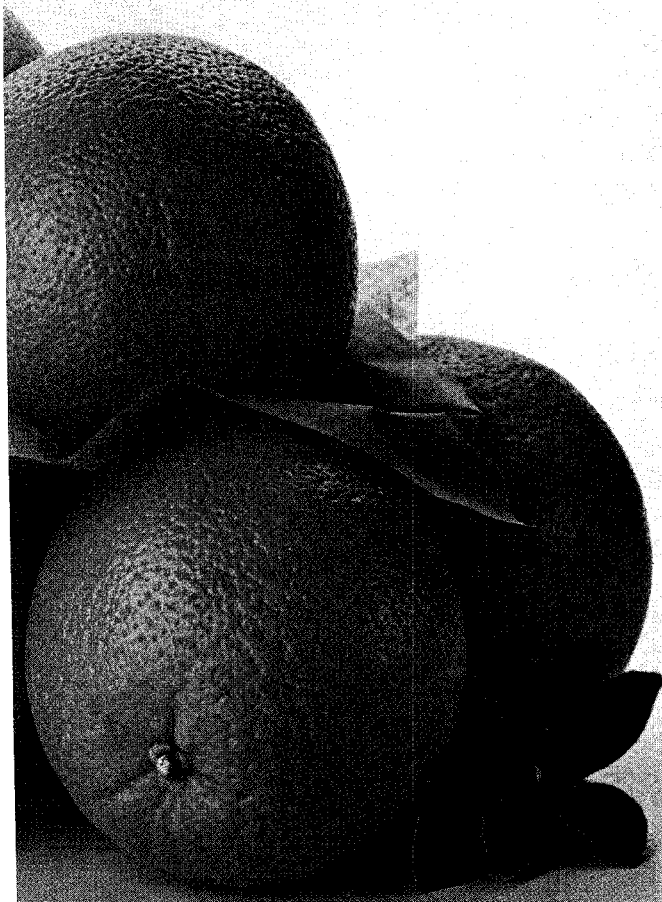
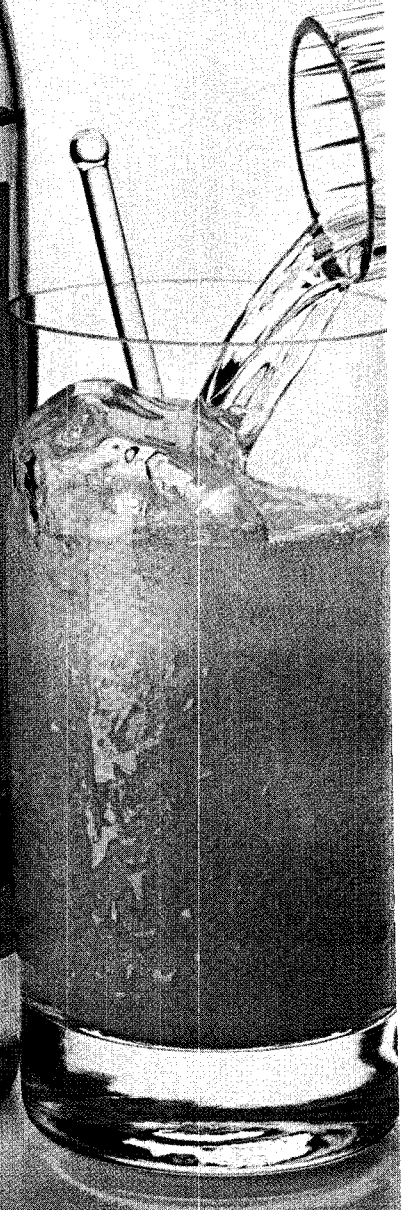
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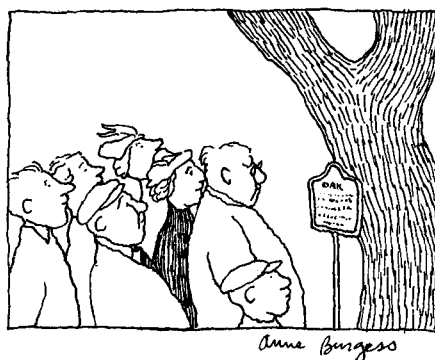
vincingly denied every element of the story that *Time* ultimately published a retraction. Halevy, saying that he had a "vague" recollection of the episode, responded with heavy sarcasm, "As we all know, the man [Begin] is still very healthy, in terrific condition. . . . He is running his party, operating as a healthy human being." (He responded in a similar way at trial, referring to Begin's denunciation of the paragraph at issue in the lawsuit: "I survived it. That's all. Look where he is now and look where I am now." Where was Begin now? "Very sick, secluded in his apartment . . . very sick, Mr. Gould, very sick.") It did not seem to occur to Halevy that between the time of the first episode, in 1979, and the time of his deposition and the trial five years had passed.) Normally, however, in his least self-effacing mode, Halevy is most expansive. Asked, for instance, whether in his military service he received any commendations or awards for bravery, he says, "No, sir. I escape all ceremonies." But he volunteers, "Forgive me, I have a terrific memory for numbers, probably part of my education," and proceeds to reel off phone numbers. He tells of a secret nocturnal visit to his home by a source whom he characterizes as an Israeli general, who says that only "you are known to have the guts" to write truthfully about affairs in Israel; and of a lunch at the Commodore Hotel in West Beirut when no fewer than eight high Israeli officers ("Everybody at the hotel saw me talking to them. Everybody at the hotel. . . . Present there were many of the sources I mentioned. Maybe I disclosed something to you which I did not intend") sought him out to confide in him. He says that one of his "sources"—after the publication of the paragraph; after the filing of the lawsuit; in fact, in the very course of the trial itself—not only reconfirmed to him that his paragraph was accurate but also asked him whether he had the courage to maintain the source's anonymity. He says he replied that he thought he could manage. He says that when the Kahan Report came out "it says, in a very ego-sided point of view, 'Whatever information you learned, Mr. Halevy, is accurate,'" and that the report as published "confirmed in a steel form" his Memo Item of two months before. Whatever one makes of this testimony—and whatever it implies about what it means to be a correspondent, in a foreign country, for a major news magazine—it is clear that it must have been particularly dif-

ficult for Halevy to fall in line with the position that his scoop was nothing new. In fact, he could not quite bring himself to do it. He testifies repeatedly that he learned the facts in his Memo Item of December 6, 1982, more than three weeks before he sent the telex—learned them in "mid-October, early November." He does not claim that he spent the time in checking. It is simply not in the nature of the "investigative reporter" Halevy believes himself to be to wait weeks, or even days, after acquiring information before filing it; and one wonders at first why Halevy should lay such stress upon having waited. Then one remembers that Ms. Alia's article appeared in *Nouvel Observateur* on November 6, 1982, more than three weeks before Halevy filed his Memo Item, and the thing becomes clear. He wants to establish, for the record, although no one seems to notice, that he *knew* the story before Ms. Alia did.

For the rest, Halevy and all the other defense witnesses must simply oblige the attorneys' and the magazine's ambivalent interest, in showing that the story was simultaneously investigative, of the utmost immediate importance, and in essence just a reprint, nothing new. And for that, within Cravath's conception of thoroughness, Ms. Alia's *Nouvel Observateur* was not enough. *Time* must claim other sources, other publications: domestic publications; *Stern*; a Dutch newspaper. While it was hard to imagine *Time*'s staff poring over French, German, and Dutch papers, and while there were certain lapses (asked whether he was familiar, for example, with the *Neue Zürcher Zeitung*, Kelly said, "I have heard of Zurich, I don't know the newspaper, sir"), most of the defense witnesses testified that they had read and relied upon these publications, which, though they did not specifically mention any discussion of "revenge," more or less implied that Sharon had virtually incited the Sabra and Shatila mas-

sacres. But even foreign, and domestic, publications were not enough. The attorneys argued, and the witnesses testified, that they had read the Kahan Report, as published, to say exactly what *Time*'s paragraph said—only, as it were, "between the lines." And, finally, in one relatively daring step, the attorneys argued, and the witnesses testified, that Sharon himself had said, practically in the same words, what the paragraph said—specifically, in his own public testimony before the Kahan Commission, on October 25, 1982. What Sharon had actually said, as part of an answer to a direct question from Justice Aharon Barak, one of the three members of the Kahan Commission, was this: "Revenge exists, without a doubt. Exists revenge. Amin himself, at the funeral, to the best of my recollection, at the funeral [of Bashir Gemayel] used the word 'revenge.' The word 'revenge' also appeared, I would say, also in discussions among us." Almost every *Time* employee who had anything to do with the paragraph at issue said, under oath, that he had read some version of Sharon's public testimony before the Kahan Commission, and that he had always understood the "us" in Sharon's "among us" to mean among Sharon and some Phalangist or other Lebanese.

This was a daring argument, on the part of attorneys and witnesses alike, for several reasons. Quite apart from the fact that a public admission on October 25, 1982, by Sharon himself that he had, on the eve of the massacre, discussed revenge with the Phalangists would have been front-page news the following day (and that *Time*'s story "Sharon Takes the Stand," in its issue of that week, made no mention whatever of such an admission or of the words themselves); quite apart, too, from the fact that the Kahan Report, as published, makes it clear that the discussion of revenge to which Sharon referred took place among Israelis, at a meeting of the Cabinet, the question arises why, in the view of *Time*'s journalists and editors, the Kahan Commission, which did assign to Sharon, among others, "indirect responsibility" for the massacres, would make no mention of such a discussion between Sharon and the Phalangists—or why, for that matter, the commission should relegate to a secret appendix information to which Sharon had testified in public several months before. Leaving aside, as well, the question why something



that Sharon had publicly admitted in October should become for *Time* the following February a scoop on which countless other publications based their stories, this opened the way to one of the most peculiar developments of the trial. Halevy himself testified, at the trial and at his deposition, that he had read both Sharon's public testimony and the Kahan Report in Hebrew. He even ventured to claim to find "huge discrepancies" between the original Hebrew and English translations of what Sharon actually said. At his deposition, he testified firmly and categorically that Sharon's "among us" implied, in Hebrew, "among Sharon and the Phalangists."

Q. Does not the word *etslenu* mean also ourselves?

A. No.

Q. Not at all?

A. *Etslenu*, ourselves, not at all. . . .

Q. Does it mean in our place?

A. No, sir, it does not . . .

Also:

Q. Mr. Halevy, what was the basis, sir, for the statement in your December 6th telex? . . .

A. First of all, on top of everything, it is Mr. Sharon's public testimony before the Kahan Commission, during which—and I remember that sentence—I think the copy of the Kahan Commission you received from us, that sentence is underlined. There is a sentence—I am not sure I'm quoting it correctly, I don't want to mislead you—There is a sentence . . . Mr. Sharon says, "The matter of revenge was discussed among us." There is a very clear reference . . . that he is referring to meetings with the Phalange or with the Lebanese officials.

No other *Time* witness claimed to read Hebrew. Halevy's testimony on this point had the entirely incidental effect of making a young official translator, Laurie Kuslansky, one of the most important witnesses of the trial.

Having made the argument that *Time* had relied for its paragraph not only on Halevy's vital confidential sources but also upon other publications, upon the Kahan Report as published, and on Sharon's own public testimony several months before (Halevy himself got so carried away by this defense litany, or rote, that he testified at one point in his deposition that he had relied on all of the above sources, published, confidential, and "you name it," and, at another, in the trial itself, upon all of the above and "from so many things that it's almost unbelievable"), the defense had to make yet another argument more congenial to the lawyers than to the journalists. In trying to establish that the



paragraph did not say the defamatory things that Sharon claimed it said, the defense had to argue that all the publications that picked up and relied upon *Time*'s scoop unaccountably misread it. Every publication that, like the *Times*, for instance, of March 1, 1983, attributed to *Time* the information that in the conversation at Bikfaya Sharon "urged [the Phalangists] to take revenge" simply and inexplicably got it wrong. This was especially difficult to argue in connection with the *Times*, because the same piece, of March 1, 1983, quoted Duncan, *Time*'s chief of correspondents, to the effect that "*Time* stands by its story." All the defense witnesses had, however, to testify that while *Time* had relied for its story upon other publications, every publication that subsequently based its own story upon *Time*'s paragraph misunderstood the paragraph to say something defamatory about Sharon.

If the attorneys and their media clients in both Sharon v. *Time* and Westmoreland v. CBS could be, in certain key respects, at cross-purposes—because CBS, too, needed to argue both that its story was a historic scoop and that it simply paraphrased earlier publications, including the Pike Committee Report, and contained really nothing new; and also, to a lesser extent, that the broadcast, as interpreted by Westmoreland and by publications that took the program's thesis up, had been misunderstood—there were signs that, in the strange heat all litigation brings to bear on things, the very process of litigation fosters the most profound misunderstandings in the world. The depositions in Sharon, like nearly all Cravath depositions, were of an aggressiveness and incivility that have come to constitute one modern litigating style. But a particular exchange in the course of Sharon's own deposition seemed to illustrate the extreme of incomprehension that a lawsuit can create even in men most familiar with and professionally at ease within the law. Sharon's deposition occupied six days. The first session, on June 15, 1984, a Friday, took place at the offices of Cravath, and it bristled with such animosity, mainly between the attorneys ("Mr. Barr: What in the world does that have to do with anything? . . . If you don't keep quiet—Mr. Gilbert: Mr. Barr, don't point your finger at me;" on the other hand, "Sharon: We are not in a hurry. We are not in a hurry. We have time. We

have time. . . . O.K. I enjoy being here with you, you are very polite, very nice, wonderful room, wonderful atmosphere . . ."), that it had to be adjourned within less than an hour and to be resumed the following Sunday, in the courtroom of Judge Sofaer. Even the judge's presence did not entirely subdue the almost unremitting hostility of the attorneys; and certain aspects of Friday's session, not apparent from the transcript of the session itself, were brought to light:

Q. Is the question confusing or you just want to hear it again?

A. Mr. Barr, you cannot confuse me. Even when you were sitting with your legs on the table on Friday, you didn't confuse me.

THE COURT: It is a common habit in this country, General.

THE WITNESS: I beg your pardon, your Honor.

Three months later, at 8 A.M. on September 5, 1984, the deposition was resumed, in Judge Sofaer's courtroom. Depositions in the presence of the judge are, in themselves, highly unusual. Normally, they take place in the offices of opposing counsel. Yet four of the six days of Sharon's deposition took place in the courtroom of Judge Sofaer. And again the Cravath style set the tone of the entire day. Stuart Gold, the firm's young, bearded specialist in libel, had seemed not so much to question as to bait Sharon, asking him again and again, in increasingly mocking terms, precisely what he meant by "blood libel":

Q. I assume, General, you weren't accusing me personally, right, is that correct?

A. No, not you personally; I am accusing the *Time* magazine . . . not that *Time* magazine and not any other publication will dare to do it again, to me or to anybody else.

Q. I don't want to steal your thunder, General, but you are not the first foreign official—

THE COURT: Keep yourself out of this, Mr. Gold.

The day also brought one of the lawsuit's few moments of rather sombre and unlikely humor. Gold had just asked Sharon whether he felt that his reputation had been damaged by the article "in the Arab countries." Sharon replied, perhaps understandably, "I don't understand the question." Milton Gould, his chief counsel, interrupted. "Your Honor," he said, "I am prepared to stipulate that we suffered no damages in Libya." Judge Sofaer, by no means a humorless man, was just this once unprepared. "In *Libya*?" he said. But the key, in

its own way touching or appalling, exchange took place when the deposition was resumed on November 9, 1984, the week before the trial began, at the offices of Cravath, Swaine & Moore. From eight-forty-five that morning until late afternoon, the unbridled rudeness of the attorneys ("Oh, God;" "Baloney;" "No, I want you to be quiet;" "You find a lot of things hard to believe. That is a congenital problem;" "I will do it, Rich;" "You are really tedious;" "You are being preposterous;" "And you are being insulting;" "I am deliberately being insulting;" "I would like you to be quiet") made it clear why these officers of the court—all attorneys are officers of the court—were better off, with this deposition, in the presence of the judge. And then the remarkable exchange began. Barr had just confronted Sharon, in the form of questions, with what Cravath, in its thoroughness, had assembled: a long series of derogatory comments about him, by the press, by colleagues, by military superiors and subordinates, by prime ministers and political friends and enemies, throughout Sharon's adult life. Sharon, having been shown piece after piece, in various publications, had just said that *Time's* paragraph "is, I would say, worse than anything else that has been said" when, after a few more lines of quarrel between the attorneys, this colloquy occurred:

A. And I would like to add to that ... you can laugh as much as you want, because you know, Mr. Barr, that you are defending a lie.

Q. Look, General, let me tell you one thing. Don't you accuse me of unprofessional conduct. Shut up. You can walk around—

A. You are defending a lie, Mr. Barr.

Q. I am not defending a lie. ...

A. I would like to say, just to add one thing.

MR. BARR: You explain to the general to stop making personal attacks.

MR. GOLDSTEIN: He has not made one. Don't you point your finger at him and don't raise your voice at him.

MR. BARR: Richard, you are making a fool of yourself.

MR. GOLDSTEIN: We will let the record speak for itself.

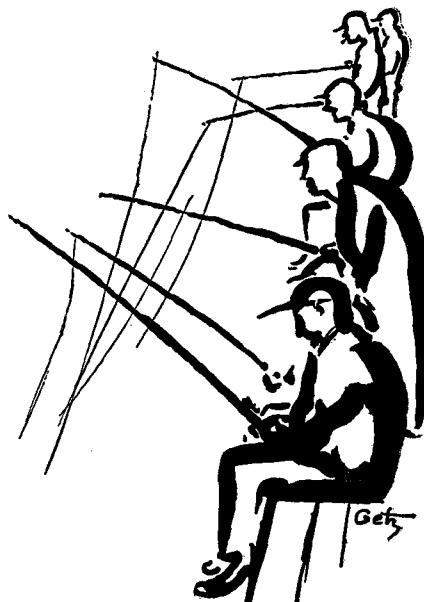
MR. BARR: You tell the general that he is not here to accuse me of unprofessional conduct.

MR. GOLDSTEIN: He has accused you of defending a lie. That's what this lawsuit is about.

MR. BARR: No, it is not. The lawsuit is not about me defending a lie. Let me tell you something in words of one syllable. If he will step out of this room, out of this deposition, and go before these people and accuse me of deliberately defending a lie in a context where I can sue him for libel, I

will. As long as you are here in this deposition, you can do that with impunity. If you step outside this room and do it—

Apart from the obvious ways in which the incivility of this exchange is extraordinary even within the context of this, or any other, lawsuit, the most remarkable thing about it is simply this: that a highly respected and capable attorney should become so incensed at what he regards as an imputation to him of "unprofessional conduct" that he finds it necessary not only to adopt this tone but actually to threaten to sue the plaintiff in a libel suit for libel. "Defending a lie" is in his view an actionable accusation of "unprofessional conduct." It does not seem, in all good faith, to occur to him that the plaintiff, the general himself, regards himself, in the paragraph in *Time*, and then in Cravath's own conduct of the litigation, as having been actionably accused of nothing less than a lifetime of lies and war crimes, and having the "evidence" for such an accusation attributed to the official, forever secret finding of a tribunal appointed by his government. The same irate, offended, and combative stance was taken, throughout both trials and after, by the press defendants and their witnesses almost without exception. It was as though the very notion that a news magazine or a network might be mistaken, in what one of the judges called "the gravest possible charges one can level at a professional soldier," were in itself a kind of libel; and as though the profession of journalism, as well as the profession of law, lacked, in all good faith, any sense of proportion, or even comprehension; and as though a remark like "You are defending a lie, Mr. Barr," in the course



of an arduous deposition, from which one might, but more likely would not, draw an inference of "unprofessional conduct"—it is, after all, unarguably part of the business of lawyers in our system to defend, if not lies, then liars—were in any way comparable to the paragraph, or the ninety minutes, and the gravity of the charges that were read by or broadcast to millions by the press.

The deposition of Sharon in the offices of Cravath that day continued:

THE WITNESS: Mr. Barr, don't dare to talk to me like that.

MR. BARR: And don't dare to talk to me like that. ...

MR. GOLDSTEIN: We will take five minutes, and I will see if the general is in a position to continue.

MR. BARR: We will continue now.

MR. GOLDSTEIN: We are going to take five minutes. ... I insist that we take a break now in light of your behavior.

MR. BARR: In light of your behavior and the general's loss of control of himself, you take a break.

THE WITNESS: Mr. Barr, don't talk like that. I never lost control.

MR. GOLDSTEIN: You got it. The deposition is concluded. I am asking you as your attorney—

THE WITNESS: I like to tell you, Mr. Barr. I never lost self-control. ... I have been through the most difficult situations. I never lost self-control.

And then, as if to underscore, in an almost touching way, the defendant's attorney's absolute failure to understand the plaintiff's case, these words of conciliation:

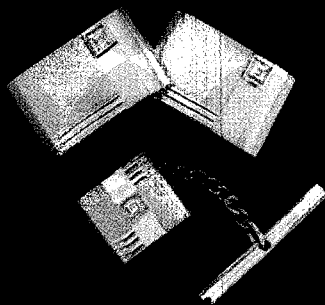
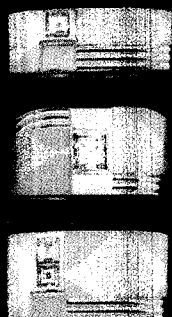
MR. BARR: General, let me tell you something. I am sorry that you and I have exchanged harsh words. There is no reason why you and I should fight with each other. I am here representing a client. I have an obligation to do that. I would not intentionally or deliberately represent a lie. I resent that, I am sorry that I resent it. I am sure you didn't mean to say it in the way it sounded to me, and I am sorry that I reacted emotionally to that. I thought you reacted emotionally too and I am sorry if I provoked that. We both have something that is important to do and we ought to do it calmly and quietly, and I will try to do that.

Reading these words, it is almost unimaginable that the speaker, who "would not intentionally or deliberately represent a lie," and "resents" even the suggestion that he might do so, but feels "sure you didn't mean to say it in the way it sounded to me," is a man who has already taken the position, and hopes to prevail with it, at great expense and in open court, that the man to whom the words are addressed is not only a liar and perjurer but a murderer of women and children. And whose own "resentment"

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has brought them all to court. In any event, the conciliatory moment is quickly past.

MR. GOLDSTEIN: I suggest that we take a brief recess and we will see if we can continue.

MR. BARR: Do as you please.

There is a ten-minute recess.

MR. GOLDSTEIN: Let us proceed.

MR. BARR: Do you want to say something.

THE WITNESS: Yes.

MR. BARR: Please do.

THE WITNESS: After hearing your statement, I am willing to proceed.

The lawyers, more politely than at any earlier time, discuss technical and procedural matters for a few moments. And then the deposition (having lasted from 8:45 A.M. to 4:15 P.M., not a long time as depositions go) is ended for the day.

WHAT we expect from the courts is, broadly, justice. What we expect from witnesses is true testimony, under oath. What we expect from press accounts is true testimony of another kind, subject to certain limitations, of timeliness and deadlines, of the abilities of the reporter, of the necessity, in all reporting, to select and to compress—otherwise, each story, in literal and full transcription, would unfold in real time; that is, indefinitely. One thing we do not, or are not legally entitled to, expect from press accounts is justice, in its aspect of fairness. Journalism has a professional obligation to be, within its own limitations, true, but no legal obligation whatever to be fair. What we expect from lawyers is victory in combat, according to certain rules, which used to include courtesy to the point of courtliness. What we expect from generals is victory in combat of another kind. One question, in *Sharon v. Time* and in *Westmoreland v. CBS*, was whose sense of truth, the court's, the lawyer's, or the journalist's, was going to prevail; and in one sense there were, in both cases, two juries out, the actual jurors and the press, which was going to have the final word. As witnesses, the generals in both contests faded, oddly, into virtual inconsequence. There were only six important witnesses in *Sharon*. For *Time*: Halevy, the reporter; Kelly, the Jerusalem bureau chief; Duncan, the chief of correspondents; and one Robert Parker, who drew up the press release that began "Sharon said to have urged," and who testified, forthrightly, that what the business people at *Time* do

each week is to ask the editors "what do you have that is promotable this week." ("If other media picked that up, with attribution to *Time*," his boss, Brian Brown, said, in a deposition that was read into the record of the trial, "this is a way of publicizing the magazine. . . . It is getting the space or the air that money cannot buy.") According to Parker, *Time* had once kept a file of stories in other publications which were picked up from *Time*—and had discontinued, and perhaps lost, that file in early 1984. For *Sharon*: Ehud Olmert, the member of the Knesset; and, finally, Laurie Kuslansky, the official translator. In *Westmoreland*, too, though many witnesses were called, there were few who mattered. For *CBS*: Crile, the producer; Adams, the paid consultant; George Allen, Adams' superior in the C.I.A.; Colonel Gains Hawkins, the officer who had been in charge of Order of Battle estimates between February of 1966 and September of 1967; and General Joseph A. McChristian, who had been in charge of all military intelligence in Vietnam from July of 1965 to June of 1967. For *Westmoreland*: Robert McNamara, Walt Rostow, Robert Komer, Paul Nitze, all of whom, as advisers in various capacities to President Johnson, could testify as to what information reached the President and the Joint Chiefs; George Carver, Allen's own superior at the C.I.A.; General George Godding, Hawkins' immediate superior in military intelligence; Colonel Danny Graham, the only official to be interviewed on camera in opposition to the program's thesis (Graham was the one who appeared on camera for twenty seconds); and General Phillip Davidson, who succeeded McChristian as chief of all military intelligence in *Westmoreland's* command.

In libel suits brought by public officials, it is not uncommon for the plaintiff to put on the stand, as part of his own case, "hostile" witnesses; that is, witnesses for the other side. It is the most obvious, and sometimes the only, means of establishing, on the part of those very witnesses, "knowing falsity" or "reckless disregard." Judge Leval had, however, imposed a time limit, a hundred and fifty hours, on each side for the presentation of its case. Burt, on behalf of *Westmoreland*, began with his own witnesses, moved on to one from *CBS*, and returned to a witness of his own, before running nearly out of time. Among the first of these witnesses, Rostow and



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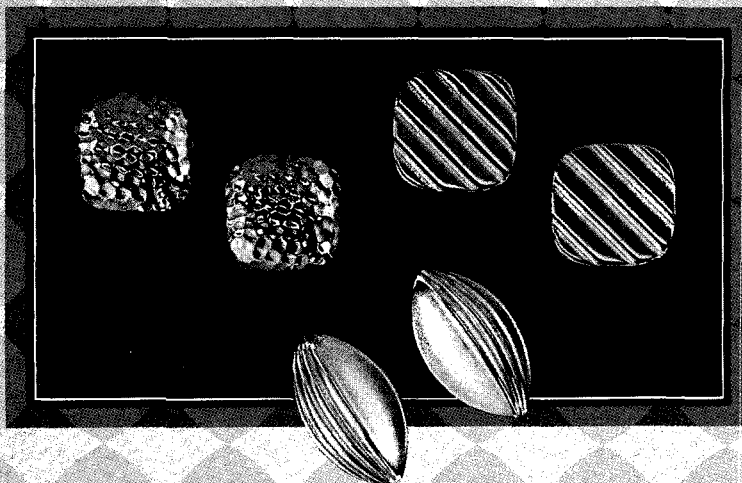


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Komer could testify that the controversy over enemy troop strength had been presented in full to President Johnson, both directly and by way of Ellsworth Bunker, who at the time was the United States Ambassador to Vietnam; Godding could testify that all sides of the controversy had been presented to Admiral Ulysses S. Grant Sharp, Westmoreland's immediate superior in the Pacific, and to General Earle Wheeler, head of the Joint Chiefs. Rostow and Godding also testified that though neither of them had appeared on the broadcast, they had told these things, in interviews, to Wallace or Crile. Two of Burt's most effective witnesses, however, were Carver and Davidson. Carver, of the C.I.A., who was not interviewed on the broadcast, could testify that, far from having "capitulated," as the broadcast put it, to military intelligence, in a joint conference in Saigon in September of 1967, he had actually *proposed*, on behalf of the C.I.A., the estimate of enemy troop strength that was adopted jointly by the military and the C.I.A. Davidson, as the chief of military intelligence in Saigon from June of 1967 to May of 1969, and the only intelligence official high enough to be in constant and direct contact with Westmoreland during the months of the alleged conspiracy, would have had to be the *arch*-conspirator "at the highest levels of American military intelligence." He was not, however, interviewed for the broadcast, either. Crile claimed to believe that Davidson was "on his deathbed" at the time—which made all the more impressive Davidson's own testimony about the events of 1967, and about his own good health and his accessibility during the whole period when the broadcast was being produced.

McNamara had originally been presented as a witness solely to Westmoreland's reputation, for veracity, integrity, and so forth, and to Crile's state of mind, with respect to actual malice, at the time the broadcast was produced. But, in the first of many mistakes attributable in part to his inexperience as a litigator, Burt inadvertently opened the door for Boies, on cross-examination, to reach broader issues and to try to impeach McNamara's credibility. McNamara had testified, for instance, that what the program had characterized as a conspiracy were in fact good-faith, "honest differences of opinion," and "a difference in [the] judgment of honest men;" also that the actual data were

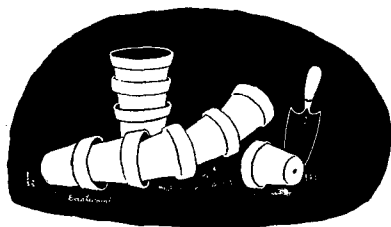
unimportant, and that there existed "cross-checks," so that any particular mistaken estimate would make no difference anyway. He confirmed as well that the controversy over estimates was known to the President and the Joint Chiefs; and that he had told these things, in what he had been assured was an off-the-record interview, to Crile. On cross-examination, however, Boies introduced certain statements that McNamara made to Congress and the public in 1967, and then elicited McNamara's testimony that he had reached the view earlier, "no later than mid-'66," or "as early as the latter part of '65," that the war could not militarily be won. Boies attempted to show a contradiction between McNamara's public statements and his real beliefs (with the clear implication that the public statements were dissembling), in order to call into question the truth of McNamara's testimony at the trial. McNamara explained, however, in one of the few moments of real historic interest in all the testimony about the war, that in his official capacity he had never made a secret of his dim view of American military prospects. In August of 1967, he said, he had, for example, testified so candidly before a subcommittee of the Senate Armed Services Committee that Senator Strom Thurmond had called him a "Communist appeaser" for making a "no-win statement," and had suggested angrily that the only conclusion to be drawn from McNamara's appraisal of the military situation was that we should "get out . . . at once." The Senate subcommittee hearing, however, was in closed, or executive, session. And the point of McNamara's testimony was this: that at the time of the hearings Henry Kissinger was in secret contact, through intermediaries, as a private citizen but on behalf of the Johnson Administration, with Ho Chi Minh; and that there was, within the Administration, a hope that if the United States stayed on a bit longer militarily a political solution might be found. As Secretary of Defense, McNamara felt obliged to inform neither the press nor a Senate subcommittee of what the President already knew: the connection between the secret negotiation and McNamara's views. His testimony on this point was, not explicitly but in passing, a reminder that the press when it is not told something, like the intelligence bureaucrat when his view does not prevail, tends to think that it has been in

some sinister way conspired against.

The witness, however, who set the tone, and turned out to exemplify the defense strategy of the whole case, was first called by Burt as a "hostile" witness: George Crile. Crile had been married for some years to the stepdaughter of the writer Joseph Alsop, and had known in a social capacity both McNamara and Paul Nitze. He had secretly tape-recorded, it emerged rather late in the process of discovery, his phone conversation with McNamara (and had lost or accidentally erased one of the tapes); he had also discussed his conspiracy theory with Nitze—who testified that he had told Crile, among other things, that the theory was nonsense, that Westmoreland had no motive to fabricate, and that the military estimates were, if anything, "too high." (Boies tried to impeach Nitze's testimony as well; the purpose of his cross-examination, he acknowledged to Judge Leval in one of the conferences at the sidebar, was to show that Nitze was "lying" in his testimony about Crile.) As producer, Crile had been most directly responsible for the program, in its entirety and in its details. It was Crile who wrote the script for Mike Wallace's on-camera interview with Adams, without revealing on the broadcast that Adams was a paid consultant. Crile chose to interview Allen, of the C.I.A., not Carver; Hawkins and McChristian, of military intelligence, not Godding or Davidson; Graham at a length of about twenty (in fact, exactly twenty-one) seconds. Crile had made the decision to cut the words "but they do have the capability of stepping this up" from an answer Westmoreland gave in the course of an interview, in 1967, on "Meet the Press"—to leave the impression that Westmoreland had given a final, and deceitful, estimate of troop strength in that answer. Crile had written the script that characterized as "head of M.A.C.V.'s delegation" to a joint conference of civilian and military intelligence (at C.I.A. headquarters, in Langley, Virginia, in August of 1967) one Colonel George Hamscher—lending a note both of authority and of confession to the words

of Hamscher, a minor officer based in Honolulu and a member neither of that "delegation" nor even of M.A.C.V. It was Crile who spliced an answer by Hawkins, "These figures were crap," which had been given to a question about estimates made by the South Vietnamese before 1966, on to the question of estimates adopted in 1967 by the joint conference of civilian and military intelligence. It was Crile who, dissatisfied with the first filmed interview with Allen, took Allen to the editing room and showed him other interviews, and then reinterviewed and refilmed him ("Where am I? What do you want me to say, George?" and "I'm sorry, George, I don't know what you want me to say. I don't know what you're expecting me to say," Allen keeps saying on the outtakes; Crile replies, "Come to the defense of your old protégé, Sam Adams"); and who, having rehearsed Adams as well, wrote Wallace a note, after the filmed interview with Adams. "It looks beautiful. Now all you have to do is break General Westmoreland and we have the whole thing ached." And it was Crile, finally, who cut the specific denials of four people (McChristian, Hamscher, a C.I.A. analyst named Joseph Hovey, and a Commander James Meacham) that what they regarded as unjustified altering of estimates reflected a conspiracy of any kind, and who nonetheless stuck by his characterization of the events in question as a "conspiracy."

It is not the business of courts to look over the shoulders of editors, or of juries to second-guess even the most arguable of editorial decisions. Still, it might seem that, after all these and other decisions and practices emerged in the Benjamin Report and on discovery, Crile would feel that some of the decisions at least *were* arguable. Instead, on the afternoon of December 5, 1984, his first day on the stand (and, coincidentally, Halevy's last full day, also as a "hostile" witness, on the stand two floors below), Crile answered with traces of derision the questions put to him by Burt. On December 10th, his second day, he took part in one entirely characteristic exchange: asked what he had meant by a sentence he had written about Westmoreland's having deceived his Commander-in-Chief, he replied, with unmistakable condescension, "I meant what I said, given what I meant, Mr. Burt." On December 12th, in response to a simple question that required a yes or no, "[Allen] says the [accurate]



numbers are in there, correct, sir?," he began, in a scathing and patronizing tone, "Mr. Burt, I think I can help you in understanding this," and proceeded, for eight paragraphs, without giving any answer to the question. On December 10th, Crile incurred from Judge Leval a rather long and stern rebuke, which included these words:

Let me explain to you in clear and unmistakable terms that that is not a proper role for you to be playing as a witness. You are to answer the question that is put to you. You are not to use the opportunity to be on the stand to make speeches or use the question that is given to you as an opportunity to say things that help your case, which are not responsive to the question.

I hope I will not have to repeat the instruction further.

Those several instances were in no way, by any stretch of the imagination, called for by the question; they were simply volunteering on your part to say things that you thought were helpful before the jury.

It is not proper to do that in answers to questions. Simply answer the question that is put to you. . . . Understood?

Crile replied, "I understand." But the admonition had occurred outside the presence of the jury. By December 12th, his answers, including the eight paragraphs where there should have been just yes or no, incurred a rebuke in open court:

Your role as a witness on the stand is not that of a debater, and although it may be tempting to you to respond fully to all of what you see as the implications of a question, your proper function is simply to answer the question, and you will have the opportunity to be questioned by your own lawyer subsequently in a manner that will permit you to bring out other things that you might want to say.

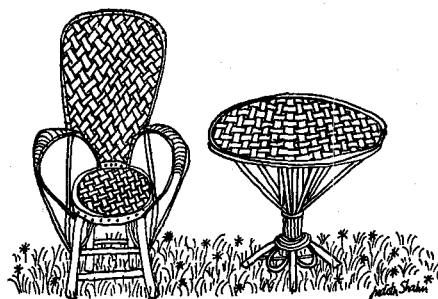
The words and the attitude of a judge, state or federal, are of enormous consequence to the jury. In all but the rarest cases, jurors trust the judge completely for the duration of the case. Federal judges tend to have a special instinct for the press protections of the First Amendment. Both Judge Leval and Judge Sofaer were acutely aware of the importance of protecting speech, particularly speech that claims, as did both *Time's* paragraph and CBS's ninety minutes, to report abuse of power, and were conscious as well of their own authority in the minds of their respective juries. Both judges were especially restrained, even kindly, in their few rebukes to witnesses. But, in spite of repeated mild admonitions from Judge Leval, Crile did not so much run away with as override Burt's questions, rarely troubling to answer, simply saying what he chose

to say. Burt was not only unable to cut him off; he made the additional mistake of spending seven full days of the valuable hours allotted for his presentation on this witness, who in the hands of a more experienced litigator would have had precisely (if he had been brought to answer with precision) a lot to answer for.

Also, with his first "hostile" witness Burt gave signs of an undercurrent that began subtly but eventually determined the actual outcome of the trial: the unusual and developing relationship between himself and the opposing counsel, Boies. In the rare instances, for example, when he made timely and well-founded objections (in the course of Boies' cross-examination) or motions to strike (in the course of unresponsive answers to questions of his own), Burt began, increasingly, to glance not toward Judge Leval but toward Boies, as though in anticipation of a reaction from opposing counsel rather than of a ruling by the judge. Nonetheless, the case against the truth of the broadcast was at that point such a strong one—with witnesses who ranked above Westmoreland testifying that no intelligence estimates had been concealed from President Johnson or the Joint Chiefs; and military witnesses directly below him, and others, high in the civilian C.I.A., testifying that no estimates had been, on his orders or otherwise, suppressed—that the derisive runaway witness and the growing deference of plaintiff's counsel to defendant's counsel did not appear to matter much. Judge Leval's controversial position, that the issue was not whether the President and the Joint Chiefs had in fact been deceived but whether Westmoreland had intended, and conspired, however unsuccessfully, to deceive them, left something for the jury to decide. His single other controversial ruling—that, since journalism has no legal obligation to be fair, the Benjamin Report, which addressed, among other issues, fairness, was inadmissible and had no bearing on whether Crile or the other CBS defendants had pro-

ceeded with constitutional malice—left the jury to decide as well whether Crile's and the other CBS defendants' decisions to ignore selectively what they had been told (if the jury believed those witnesses who said they had been told it) constituted "knowing falsity" or "reckless disregard" or, on the contrary, mere exercise of editorial judgment, whose legitimacy it was not the business of courts or juries to decide. For the moment, however, Westmoreland's case was going very well.

FROM mid-October of 1984 through mid-February of 1985, for the duration of *Westmoreland v. CBS* and *Sharon v. Time*, more than a hundred reporters were accredited for, and in more or less regular attendance at, one case or the other. A strange sense of moment and of urgency was reflected not only in the presence on the courthouse steps each day of camera crews waiting, often shivering in their parkas, for one of the principals either to enter or to emerge but even by a yellow "Out of Service" sticker pasted, for several weeks, over the slot for coins in one of a row of telephone booths on the first floor, just outside Room 110. The phone was in good working order. A reporter for one of the wire services had put the sticker there to assure his own access to a phone when there was a general rush for the booths at every break. "Very few civil cases are decided by advocacy," Milton Gould said during a break, midway through the Sharon trial, to a reporter who had asked him how radically the outcome of the case upstairs might be affected by the fact that plaintiff's counsel seemed overmatched. "Because the facts control. In criminal cases, it's different. But most civil cases are decided by incontrovertible fact." Judge Leval, too, had said, very early in the trial upstairs, that the case would not be decided by lawyering. At another point, however, Gould said, "My kids," meaning his young partners and associates, in the months when he was ill, "performed a miracle of lawyering." And, later still, he said that a turning point in the preparation of Sharon's case had been the day when he persuaded Sharon to admit that letting the Phalangists enter the camps at Sabra and Shatila had been, on Sharon's part, a mistake. Sharon had protested that not even the Kahan Commission, when he appeared before it, had required him to acknowledge a mistake. "But in the tortuous intrica-



cies of American libel law," Gould said, persuading Sharon "transformed this case from a contest of shams to a contest of mistakes." There was more than one sense in which Sharon's suit and Westmoreland's became, paradoxically, one of the best things that could happen to the American press. Neither suit should ever have been brought. Once brought, neither suit should have been so aggressively defended. Because neither the ninety minutes nor the paragraph should have been broadcast or published, either. Whether it was Cravath, or the press defendants, or some unexamined, combative folly the clients and their law firm embarked upon together, the refusal to acknowledge, or even to consider, the possibility of human error caused both CBS and *Time* and their attorneys to spare no expense, and experience, apparently, no doubt or scruple, in transforming both suits into a contest not of mistakes but of legal and journalistic shams. The trials, as they evolved, had important implications for journalists, print and television, and for their audiences and readers. But the question was what accident or principle caused these cases, or shams, to take the form they took, or even to come before the courts at all.

IN the fall of 1979, after it published David Halevy's story "Fears for Begin's Health," *Time* had, it emerged rather late in discovery, undertaken an investigation—as much to its credit as the Benjamin Report, triggered by the piece in *TV Guide*, had been, more recently, to the credit of CBS. Within six years, however, the magazine had changed so radically in its view of its own obligations that it not only abdicated any responsibility to inquire whether the paragraph at issue in the lawsuit was accurate but seemed positively embarrassed, in fact, tried actively, to a point very near the borderline of legal ethics, to conceal the results of the 1979 investigation, and even the fact that any investigation had taken place. The story had said that, according to confidential sources, a stroke two months before had so severely incapacitated Begin that he was unable to govern; and that three neurologists, including one named American, had been summoned to examine the Prime Minister, in secret, in a laboratory somewhere in Israel. Begin himself, among others, had so vociferously denied the story that Dean Fischer, then *Time's* Jerusalem bureau chief, had checked with all five

people Halevy claimed were "sources" (with the exception of one, whom Fischer characterized as "a close friend of Halevy's," and "a tipster"), and found that one had not even spoken with Halevy, and that another said the story was "fantastic," while all, including the American named specifically in the story, said that it was false. But on the first day of his deposition, September 11, 1984, Richard Duncan, *Time's* chief of correspondents, replied, for example, to a question whether Fischer had got a "different version" from Halevy's and had told Duncan so, "I don't recall that. That people told him something—told him that they had said to Halevy something different than Halevy said they had told him?"

Q. Yes.

A. I don't recall that.

Also, within the first hour of the first day of Duncan's deposition, there occurred this colloquy:

Q. Do you maintain any ledgers or files of any kind with respect to the performance of reporters, correspondents?

A. No.

Q. So, to your knowledge, no documents exist at *Time* magazine with respect to the evaluation of particular reporters?

A. That is correct.

Within a few moments more, however:

Q. Does *Time* maintain personnel files for its reporters?

A. I maintain files for the correspondents. . . .

Q. [Does what the file contains] sometimes relate to the performance of the reporter?

A. It could be.

And then:

Q. Do you recall what is in the personnel file of Mr. Halevy?

A. No, I do not.

Richard Goldstein, who took Duncan's deposition (which was defended by Paul C. Saunders, another veteran of Cravath's defense of I.B.M. in anti-trust), immediately renewed an earlier request for the personnel files of all *Time* employees who had contributed to the paragraph at issue in the trial. Cravath, on behalf of *Time*, renewed an objection, that to find and produce the documents was "overbroad" and "unduly burdensome." As it turned out, the files took less than an hour to compile. Duncan was obviously proceeding in the absolute confidence that the documents would never be produced. Judge Sofaer ruled that *Time* must turn them over "prior to scheduled depositions" of witnesses



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placed to testify about them. Cravath waited until less than two hours before the last such deposition was at an end. At the trial, however, both the personnel file itself and Duncan's answers about it, and about the Begin health story, came back to present a major problem for *Time* in its defense. Because it turned out, from one letter in the file, that, alone among *Time's* eighty-eight current correspondents (and perhaps among the correspondents in its history, certainly among those Duncan could recall), Halevy had, in 1980, been put on "probation," and the file contained as well a memorandum from Duncan to *Time's* three top editors which read, in part:

At this moment, on the basis of the information given to me by Fischer, and of my talks with Halevy, I believe our story is wrong. Inescapably, that conclusion then requires a further decision as to whether Halevy was either (a) inexcusably shoddy in his reporting, or (b) intentionally misled us, or (c) was the victim of an incredibly well-orchestrated disinformation plot... Begin's personal protest is not routine, and I consider that it essentially discredits the story... Halevy's case rests on establishing that there is, indeed, as he says, a huge coverup. It is possible but I'm afraid he must prove that case... with much better evidence than he has for the original story.

Also:

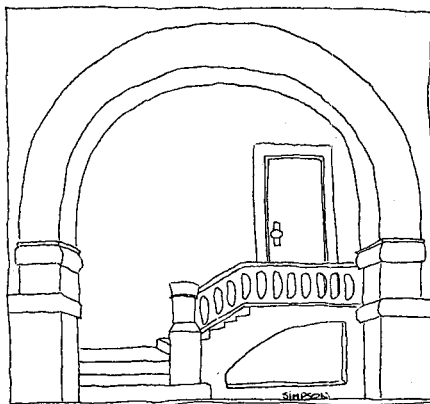
I have talked with David Halevy and he will be filing what he promises to be dramatic confirmation of the story late Thursday or early Friday.

Halevy never did file "dramatic confirmation" of the story; and a few weeks later *Time* published a sort of retraction. But the point is not only that *Time* should be at pains to conceal this essentially healthy self-examination (Duncan's memo also included a summary of the specific denials by all the "sources" Halevy claimed); it is that *Time*, through Duncan, through Kelly, the bureau chief, through all the many witnesses who testified, for example, that Halevy was an "excellent" reporter, one of "the top four or five" of *Time's* investigative correspondents, should feel that it had to litigate, as it were to the death, over a single paragraph rather than to inquire, for its own sake, for economy's sake, for the honor of journalism, for the trust and the information of its readers, whether the paragraph, as published, was correct. The problem, as it emerged in court, was not that a reporter should once have been put on "probation," or that *Time* had once conducted an investigation and discov-

ered a mistake. The problem was that *Time* assumed so aggressive a strategy in the litigation that it tried to conceal its own earlier, praiseworthy acknowledgment of fallibility, and thereby raised serious questions about the honesty of its witnesses in the present case. It is understandable that Duncan would want to protect the confidentiality of his personnel files; also that he should misunderstand the rules of discovery and testify on a misguided assumption that those files would never come to light. But to testify at his deposition that he did not recall anything about Halevy in those personnel files; and to offer a description of a walk with Halevy, in May of 1982, along the banks of the Nile, in the course of which, Duncan claimed, he actually criticized Halevy for being "too factual," and for "hitting hard with news significance," and not giving enough "interpretive material;" and then to become extremely vague in his recollection of an earlier walk, in Athens, in 1980, after the Begin health story and the retraction (about these matters, and throughout his deposition, Duncan has a remarkable density of "I don't recall"s), raised serious questions about his veracity at trial. The personnel file, for example, contained another letter, dated February 13, 1980, from Duncan to Halevy, which began, "Dear David: This is the letter I promised you confirming our conversation in Athens;" went on to discuss the terms of the "probation;" and enumerated certain "conditions," which Halevy had accepted, "to correct that situation." One of the conditions was "A more obvious effort on your part to insure that what you report to *Time*... is printable, reliable information, reflecting not just informed speculation but the *most likely true situation*;" another was "A consistent effort on your part to report, and also to suggest, the 'meat and potatoes' everyday (or every week) sto-

ries from the bureau, not just specials and exclusives;" and a third was "multiple sourcing, when at all possible," on all stories. The difficulty was not that these letters, memos, and files existed, or that the events reflected in them had occurred. It was that Duncan should claim so clearly to recall what was not really a criticism at all ("too factual," not enough "interpretive material") from one conversation and to have forgotten, or to recollect only vaguely, what would convey the flatly opposite impression (too little "reliable information," too much "just informed speculation") from another conversation, which was so clearly documented in his files.

There is no doubt that publications less serious than *Time* might never have conducted the internal investigation, which resulted in Duncan's memorandum and his letter (and that broadcasters less serious than CBS would never have produced the Benjamin Report); it is also true that less responsible publications, faced with discovery in a lawsuit, might have destroyed what files they could, and responded to specific document requests with the claim that they had no files. But, short of that, *Time* and, to a far lesser degree, CBS made every effort to conceal their own honorable attempts at self-examination, to the very borderline of what a jury could believe, and even of what the law of discovery permits. (Duncan, for example, it emerged at trial, went, immediately after the close of his deposition, to look at the files and memorandums, which he had just claimed, under oath, so vaguely and, as the trial revealed, inaccurately to recall.) And the problem in Sharon went further still: the press witnesses tried to justify their apparent absolute, even righteous, lack of interest in the factual truth of their paragraph, as published, with an increasingly odd conception of the law itself. Witness after witness, having said, as though making a modest disclaimer, "I am not a lawyer," proceeded to explain that once suit was brought, all responsibility for investigating or attempting in any way to check a story shifted entirely to the attorneys. Asked, for instance, on December 13, 1984, his first day on the stand, whether he or anyone else at *Time* had made any effort, from the time of Halevy's original Worldwide Memo Item of December 6, 1982, to the present, to learn the identity or check the reliability of Halevy's sources, Duncan replied, "We have



not, at *Time*." Also, "It has been my longstanding impression as a reporter . . . that it was not correct;" "It would have been improper;" "Once I was sued, it wasn't wise for me to have that particular knowledge;" "Nor did I wish to know;" "That was at the time when the lawyers were taking this thing out of the hands of the journalists, as far as we were concerned;" finally, "Some reporters go to jail. . . . I guess the shortest answer would be, I thought the fewest of us who might be liable to go to jail should be liable." Quite apart from the ignorance this showed on the part of people highly placed, after all, in the profession of journalism about the very shield law they invoked so frequently at other times—indeed, the specific intent of the law is to *enable* journalists to check with "sources," whose names, in cases of this kind, they can neither be compelled nor be sent to jail for refusing to reveal—there was the note of drama, even of heroism. One might expect from the leader of a brave little group in the resistance, in an occupied country in time of war, just this sort of statement: the fewer who know, and thereby risk jail or worse, the better. It was as though the press defendants, CBS and *Time*, both apparently sincerely, considered themselves in just this way embattled—having, also apparently sincerely, no conception of their own size and strength. And in Sharon it was as though the whole aura of mystification that surrounded the "confidential source" attached as well to the attorneys, leaving the journalists with two oracles, and two bases for a professional obligation not to inquire.

"I, as chief of correspondents, did not [inquire]," Duncan replied, in court, to yet another question, "because at that point the role to conduct that kind of investigation had passed from me to the lawyers. The lawyers were starting a very big investigation, which continues to this day." The position, legal, moral, intellectual, journalistic, of the press defendants, especially in Sharon, was essentially embodied in that answer. The little band of sometimes stoic but at other times complacent, and even flip, resistance fighters hired counsel. Their attorneys, committed to the most aggressive and thoroughgoing modern style of advocacy, did undertake "a very big investigation," trying to prove that, far from being instances of knowing falsity or reckless disregard, the defamatory statements were substantially

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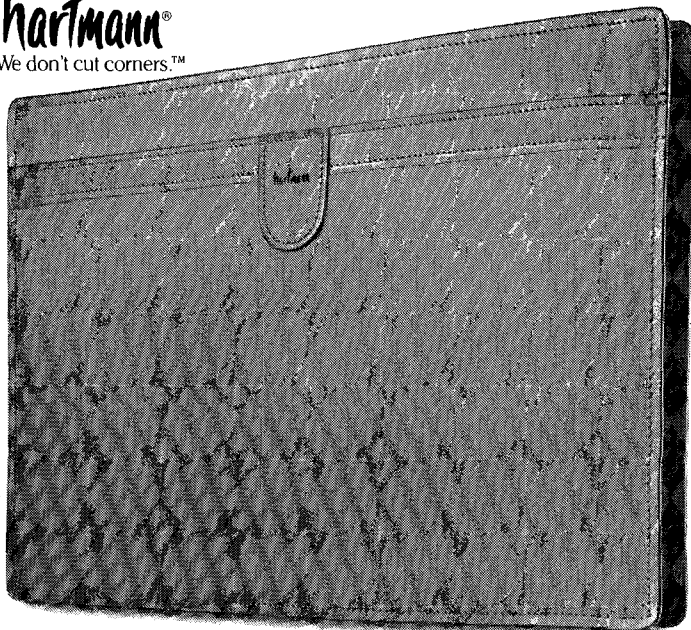


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and literally true, and were even, in effect, understatement: something more, and worse, was true. The "very big investigation" in Westmoreland consisted largely of trying to elicit, from persons who had appeared on the broadcast more or less in support of the program's thesis, statements far stronger and far less ambiguous than their statements on the broadcast; also of trying to find other witnesses who might support the program's thesis; and, finally, of massive subpoenas, depositions, and requests for document production, on the scale of a major suit in anti-trust. In Sharon, however, the "very big investigation, which continues to this day," turned out to consist only secondarily of this last form of discovery—though it included what one judge in Washington dismissed as a "sweeping, unfocused request" for documents from agencies of the United States government, which "makes absolutely no effort to demonstrate relevance," and an attempt to subpoena an Israeli general (who was temporarily in Washington), which another judge dismissed as "unprofessional." The "very big investigation" consisted more importantly of the research involved in gathering, from publications of all kinds, such items as the stories in French and Dutch newspapers and magazines, and the transcript of Sharon's public testimony, on October 25, 1982, before the Kahan Commission—on which all *Time* employees who had contributed to the paragraph could claim they had relied. (The thoroughness of Cravath's investigation could not, in all probability, have overlooked something as nearby and accessible as Duncan's personnel files, which made all the more mystifying the attorneys' permitting him to testify about their contents in such a misleading and, as it happened, ultimately damaging way.) But the predominant element in the "very big investigation" by the attorneys in Sharon was simply this: an attempt to confirm what *Time* said, by confirming that Halevy's "confidential sources" had said what Halevy said they said. The sense in which the investigation, as Duncan put it, "continues to this day" was that *Time* claimed, through both its witnesses and its attorneys, that the investigation by the attorneys after the publication of the paragraph did confirm it. On at least four occasions—once right after Sharon brought suit; once after Halevy had read Sharon's deposition; and twice in the course of the trial itself,

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once when the jury was actually deliberating—*Time* claimed to have reconfirmed that the paragraph was true. The difficulty, as it turned out, was that the only confirmation the lawyers' "very big investigation" yielded came from Halevy's "sources," or, more precisely, from what Halevy, at each of these post-publication stages, said his "sources" said. As though this position, sincerely and adamantly held, were not in itself sufficiently circular and odd, it was carried a step further. Halevy at one point claimed for what he had "learned," after publication, on behalf of the attorneys, the work-product privilege:

A. This is the work product of Mr. Barr, your Honor. . . . So I think, for the last twelve months, I worked for Mr. Barr, and for Cravath, Swaine & Moore, and . . . they wanted my knowledge. . . . And we talked to a lot of people, to a lot of sources.

And the attorneys claimed, in effect, the journalistic shield. In the end, Judge Sofaer did sustain an objection; the shield, after all, protects only who "sources" are, not what they said. But this was on the last of Halevy's seven days on the witness stand. On the second, in consultation with his attorneys, he had already given an answer that caused the judge to comment, "This situation is even more puzzling, where a person invokes a privilege over something he had previously *said himself*." And the attorneys' "investigation," such as it was, turned out to yield only a small series of dire intimations, cloaked in "work product," derived again from "confidential sources," by the same Halevy, saying the paragraph, as published, was truer than he had ever known it was:

Q. Do I understand you to say that since the article was prepared you have learned more information which makes the paragraph in the article totally irrelevant, is that what you said?

A. I didn't say that.

Q. Well, sir, let me read you this, reading from page 752 of your deposition. . . . "A. Oh, no, oh, no. I think you misunderstood me. Since that article was prepared I learned more information which makes this paragraph look totally irrelevant. . . ."

Now, sir, would you tell us what more information you learned which would make the paragraph totally irrelevant?

[Five successive unresponsive answers.]

THE COURT: Why did it make the paragraph irrelevant? That is the word you used. Was it an inappropriate word, you think?

THE WITNESS: I think I still stand behind that word. Since the lawsuit was filed I think we approached more sources. We got ahold of more minutes, notes. . . . I don't know everything that was done by

Mr. Barr and his team. I think a couple of things—

THE COURT: Just testify about yourself, what you know.

THE WITNESS: I said it there, that this is the work product of Mr. Barr, your Honor.

MR. GOLD: Can I address that for a second, your Honor? Certain material we do believe constitutes our work product that Mr. Halevy did help gather. . . .

THE COURT: I don't understand it. Is he saying that these are materials that he will not reveal to us? Is that what you are saying? Was it covered by the work-product privilege?

MR. GOLD: I am not sure, unless I can speak to the witness, the full extent as to what he has in mind.

[More questions and unresponsive answers.]

THE COURT: He wants to know *what did you come up with*, that is all.

THE WITNESS: . . . I did not go to any meeting alone, without the lawyers present. So you want me to talk now about meetings where the lawyers were present? With pleasure.

THE COURT: Mr. Gould doesn't want you to talk in terms of lawyers being present or not being present. You are introducing this element about your lawyers being present. I wish you would leave that out of it. Your lawyers are representing you here. They are representing *Time*, Inc., here. They are not witnesses in the case. What you should just tell him is *what did you find out?* What information did you develop? . . .

MR. GOLD: With your Honor's permission, can I speak to the witness to find out the extent of the material?

MR. GOULD: I object to it.

THE COURT: Sustained. This is a very simple question. You say the story became irrelevant because you found out so many other things, presumably. He just wants to know what other things you found out.

[Two full pages of questions and unresponsive answers.]

Q. Now, sir, you did not learn anything more about the visit of Sharon to the Gemayel family, which is referred to in the paragraph, did you? . . .

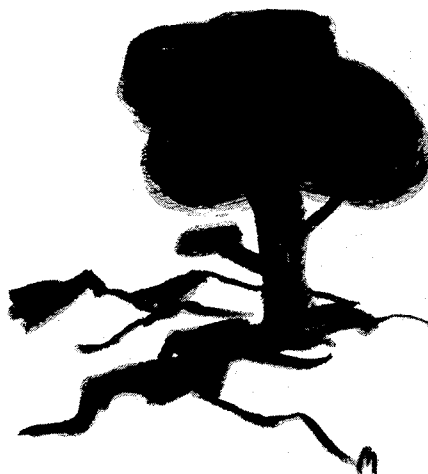
A. No, sir.

Q. And you did not learn any more about what was in Appendix B?

A. No, sir.

[Etc.]

This verged, obviously, on farce;



and it is possible that when journalists and lawyers combine their particular certainties, totems, and obfuscations, as well as their notions of what the truth, or even a fact, is and its uses, the result is almost inevitably farce. But even without these "privileges," these chimerical licenses and restraints, the position became this: A story is filed; a publication believes it and, without further investigation, prints it; the person whom the story most directly concerns disputes it; the publication, still without further investigation of any kind, stands by the story and refuses to retract it; the publication is sued; now claiming a positive duty not to investigate, the publication continues to stand by its story, and leaves what investigation there will be, if any, to its lawyers. The lawyers are advocates; they have no interest in the results of an investigation, except for its effect on their client's interest in the case. In the real world, the client's journalistic interest in being accurate may be in absolute conflict with its legal interest in court in prevailing in the litigation. (Under the adversary system, the lawyer's obligations as an officer of the court may be inescapably in conflict with his obligations to his client; but this is a matter that legal philosophers tend either to argue, without any prospect of resolution, or simply to deny.) The press client's choice, to pursue this position throughout the litigation, is considered by the defendant and by his colleagues indispensable, in some way, to the defense of the First Amendment. Part of this development seems to be the result of processes by which a sound, even a noble, position—that the press should be free to publish, and free from harassment or oppression, after publication, by men in power—slides into cant; and a small chapter of modern legal history might be called the cant of the libel bar. But part of it has to do as well with the peculiar powers, capacities, and limitations of the press at this historical moment; and to whom or what, if anyone or anything, it considers itself accountable. As it happens, there has been in recent years a problem of accountability in the military as well. Disasters, whether of unpreparedness, incompetence, or corruption, used to be followed, immediately and invariably, by courts-martial, inquiries to assign responsibility. Sometimes the outcome was not what would be recognized in a civilian court as justice, but there existed in the military at least the notion

that *someone* was accountable—a notion that appears to have vanished, in the absence of courts-martial, since at least the disastrous episode of the rescue mission to Iran, and until at least as recently as the calamity in Beirut, of marines insufficiently protected, and blown up in their beds. It was to the press, in print and on the air, that everyone, including the military, had seemed, in recent years, accountable, with the reporter, frequently, as counsel; the anchorman or editor as judge; and the court, each living room. In Sharon and Westmoreland, the press, in what should be one of its highest and least arguable functions, to report on the abuse of power by men (in this case, military men) in power, went somehow awry, and found itself called to account before two juries in defense of principles that appeared, gradually (and in the course of what one of the judges called “this all-out litigation strategy”), less and less compatible with its interests not as litigants but as press.

ONE peculiarity of transcripts of trials and depositions is that almost nobody ever reads them. Attorneys read them, in their more or less daily segments, for the day-to-day conduct of the case. Other attorneys, perhaps, later read them, in search of arguments to raise upon appeal. But the purpose of a trial is, of course, to get a dispute resolved and over with. The jury is specifically precluded from knowing anything but what is presented to it in court, on a quotidian basis (and what it chooses, in the course of its deliberations, to read or hear again); once a verdict is reached, there is almost nothing to be gained from reading the completed record. The transcript either supports the verdict or raises an uneasiness that the trial should have laid to rest. Though it is essential to our system that official transcripts of trials and depositions be on file in their respective courts, there exists no branch of legal studies which is occupied with transcripts at the level of trial. The transcripts, in all the many courts, local, state, and federal, would be so many and voluminous (the records of the trials alone, in Sharon and Westmoreland, run to four thousand one hundred and eighty and nine thousand seven hundred and forty-five pages) that it is not clear where such a branch of studies could begin. And so, official and necessary as they are, an accumulation of all the individual biographies of our legal sys-

tem, they remain, in their completed form, unread. A study, to some small depth, of the transcripts of depositions and the trial in Sharon, and of certain events at the trial in Westmoreland, reveals, with a clarity perhaps greater than that of the litigation as it unfolded day to day, just what the personalities and issues were, and what was decided in the end.

THE lore had it that the Sharon case ended in a kind of moral victory for Sharon, reflected in certain of the jury’s verdicts and in *Time*’s concession that there was no reference to any discussion of revenge between Sharon and the Gemayels in Appendix B—a public-relations setback of considerable proportions for *Time*. But also that *Time*’s position (that the paragraph was still “substantially true;” that the attribution of the “disputed material” to Appendix B was a “relatively minor inaccuracy;” that evidence of the discussion of “revenge” existed somewhere; and that *Time* had been denied “due process” by Israel in the search for that evidence) had been vindicated, in some way. The lore also had it that the Westmoreland case ended in an absolute rout of Westmoreland, in that he was so daunted by the testimony of two witnesses, General Joseph McChristian and Colonel Gains Hawkins, that he abandoned what he had come to realize was a hopeless case. The “due process” argument was one more legalistic obfuscation, an attempt, for public-relations purposes, to use a precise and important phrase from constitutional law in circumstances where it had no meaning and no application. There is no sense in which it is possible to say that a litigant in a case before an American court has been denied (or, for that matter, has been granted) “due process” by a foreign

government. And it was, after all, *Time* that initially claimed access to the “notes,” or “minutes,” of the meeting at Bikfaya between Sharon and the Gemayels (and to Appendix B), by way of Halevy’s “confidential sources,” whose identities it refused, under the shield law, to divulge. It could hardly claim that “due process” had been denied it in reaching the same “sources” from whom it claimed already to have “learned.” In his Opinion and Order of November 12, 1984, Judge Sofaer put it very simply: “*Time* cannot deprive itself of using information it has and claim at the same time that it has been denied due process” in its search for that information. What Cravath seemed to want to say was that *Time* had been treated, in some general way, unfairly by the State of Israel in Israel’s refusal to grant access to the entirety of its secret archives—where *Time* hoped to find something, anything, as compromising as its paragraph about Sharon. But there was, legalistic obfuscations aside, something inescapably circular about *Time*’s fundamental claim. “I have to believe it,” Kelly had said at one point in his deposition, and he repeated this at the trial: “I have not seen Appendix B. And I am totally unconvinced it is not in Appendix B. So I believe it is in Appendix B.”

Similarly, at trial, Duncan:

Q. At the time . . . did you believe that [Halevy’s] reporting was unreliable?

A. No.

Q. Why not?

A. Why did I not believe it was unreliable?

Q. Yes, sir.

A. Because I continued to believe it was reliable and I continued to believe that it was reliable reporting. We continued to rely on his reporting. That is the best evidence.

These little circles of belief (a favorite word of both Kelly’s and Duncan’s was “logical”) characterized *Time*’s position to the end. *Time* believed it because *Time* had said it; and if there was no other evidence for it the unmistakable implication was that Sharon, the Israeli government, the Kahan Commission, Justice Kahan, and, finally, even Judge Sofaer, were involved in a coverup.

The lore was correct in depicting the outcome of Westmoreland as a rout, but mistaken about its causes, its meaning, and its terms. The Joint Statement with which, on February 19, 1985, the lawsuit ended read:

General William C. Westmoreland and CBS today jointly announced the discon-



tinuance of the Westmoreland suit against CBS, Mike Wallace, George Crile, and Sam Adams.

The suit pertained to a CBS News broadcast "The Uncounted Enemy: A Vietnam Deception," broadcast on January 23, 1982.

The matters treated in that broadcast—and the broadcast itself—have been extensively examined over the past two and a half years both in discovery and then through documents and witnesses presented by both sides in Federal Court.

Historians will long consider this and other matters related to the war in Vietnam. Both parties trust their actions have broadened the public record on this matter.

Now both General Westmoreland and CBS believe that their respective positions have been effectively placed before the public for its consideration and that continuing the legal process at this stage would serve no further purpose.

CBS respects General Westmoreland's long and faithful service to his country and never intended to assert, and does not believe, that General Westmoreland was unpatriotic or disloyal in performing his duties as he saw them.

General Westmoreland respects the long and distinguished journalistic tradition of CBS and the rights of journalists to examine the complex issues of Vietnam and to present perspectives contrary to his own.

Even the most cursory reading of these paragraphs shows that they contain no concessions whatever on the part of CBS, and that Westmoreland could have obtained such a statement not only without ever bringing suit but even if he had brought suit and lost. Also, the most elementary principles of draftsmanship would at least have substituted the word "dishonorable" for "unpatriotic or disloyal" (the statement as it is barely exonerates Westmoreland of something not even the program had accused him of: treason); deleted the phrase (unworthy of both parties in its condescension) "as he saw them;" and added a paragraph to the effect that each party had agreed to bear its own legal costs. The statement, nonetheless, would remain irremediably trivial. Blandly to dismiss as a matter of "perspectives" an outright allegation of "conspiracy" to deceive not only dissolved in euphemism the central issue of the program and the case, it inadvertently brought an ironic focus to the words "CBS News broadcast" and "the rights of journalists." Because, though the program may have been produced within the CBS News department, and even purported to present a major scoop (that Westmoreland's "conspiracy" to deceive had led to a military defeat at Tet, and to the ultimate loss of the war), the program was clearly not, in any con-

ventional sense, news. Nor were its producers and interviewers journalists. And the scoop, or, as the statement would have it, the "perspective," was demonstrably wrong: Westmoreland led no such conspiracy; Tet was a public-relations catastrophe but not a military defeat; and though the war was lost, the loss could hardly be attributed to a conspiracy or a defeat that never was. An example of the sort of testimony, on just the matter of Tet, with which the trial "broadened the public record" occurred on February 8, 1985, between the day of McChristian's testimony and the first day of Hawkins', in another colloquy, between Westmoreland's chief counsel, Burt, and the defense witness Crile:

Q. And did you believe, Mr. Crile, prior to the broadcast, that Tet was a terrific military victory for the United States?

A. [Four paragraphs, containing neither yes nor no.]

Q. Mr. Crile, did you tell any executive at CBS, after the broadcast, that in a war of attrition Tet was a terrific victory for our side?

A. [Three paragraphs, containing neither yes nor no.]

The witness was shown notes of a conversation between him and CBS executives, in which he was identified by the initial "G."

Q. Did you say those words, Mr. Crile?

A. [Two full pages, which contain neither yes nor no but include a strange insistence that the transcript "has three dots."]

Q. "G," that is George Crile, isn't it?

A. I presume so.

Q. [Quoting "G" in the notes] "If you're talking about a war of attrition, Tet was a terrific victory for our side?"

A. There were three dots there, Mr. Burt.

Q. Three dots? Thank you, Mr. Crile.

A more experienced, and, by this point in the trial, presumably less exhausted, litigator would have elicited from Crile no paragraphs, nothing about what he "presumed," no remarks about "dots" or other punctuation, but a simple and, on the basis of the notes, undeniable "Yes." It was clear, however, on the "broadened" record, that even Crile himself had not believed that element of the program's thesis which ascribed to the "conspiracy" a military defeat at Tet.

But in the lore it was not Crile or any of the other CBS contributors to the program who so demoralized Westmoreland. It was McChristian and Hawkins, those two former subordinates, one a fellow-graduate of West Point. The exigencies of news report-

ing, particularly daily reporting under deadline pressures, could not help contributing to a myth, or at least a hasty explanation, of what had led to the Joint Statement. From a plaintiff's point of view, the statement, or a settlement of any kind, came at the worst possible moment—namely, at the height, and nearly at the end, of almost six weeks' presentation of the defendant's case. If he was going to settle at all, a better time, obviously,

would have been earlier, at the end of his own, very strong presentation; or later, after the summations of both sides to the jury; or later still, while the jury was

deliberating; or even after the verdicts had come in. As it was, the "discontinuance" of the case was announced in the course of a three-day holiday weekend, Washington's Birthday, which meant that the jurors were exposed to three days of television and newspaper commentary about the meaning of Westmoreland's "capitulation"—whether it repeated, in some way, the American experience in Vietnam; what were its ramifications for First Amendment freedoms; and so forth—before the agreement was actually announced to them in court. And even then, it was by no means clear what the verdicts would have been. Interviews, after the last day of Westmoreland v. CBS, revealed that most of the jurors (height of the defendant's case and three days' coverage notwithstanding) believed Westmoreland, liked Boies, disliked both Crile and Burt, but simply had not made up their minds. In any event, before McChristian and Hawkins took the stand Westmoreland was still suing; afterward, or, more precisely, in the middle of Hawkins' cross-examination, he was not. So the explanation *ought* to lie in the fact that they testified, and in who they were and what they said. Of course, Westmoreland and his attorneys had known for months, from their depositions well before the trial began, what both McChristian and Hawkins were going to say; and if Westmoreland had somehow missed it he would have been reminded, when Boies used a videotape of McChristian saying virtually the same things, in his opening statement of the trial. The lore of the unanticipated betrayal, however, not only made better, simpler sense; it made, in another way, better, that is, more sentimental, copy. The "discontinuance" and the statement had, however, almost nothing to do with McChristian or Hawkins—or,



for that matter, with Westmoreland.

McChristian had been J-2 M.A.C.V. (that is, chief intelligence officer in General Westmoreland's command) from July 13, 1965, until June 1, 1967, when, in the realization, by his own account, of an old dream, and not (as the CBS program had suggested) as a form of exile or demotion, he became Commanding General of the 2nd Armored Division, at Fort Hood, Texas. He was later promoted further, to Chief of Intelligence of the United States Army. In 1971, he retired, to Hobe Sound, in Florida. At first, as a witness, under Boies' direct examination, McChristian seemed forthright and well informed, with a trace, perhaps, of vanity. He testified, for instance, that in his very first week in Vietnam he had founded C.I.C.V. (Combined Intelligence Center, Vietnam)—which, it seemed he could not help adding, was "one of the *finest* supports of combat intelligence that was ever developed in support of our forces in wartime." In view of the outcome of the war in Vietnam, and in comparison with, for example, the breaking of German and Japanese codes in the Second World War, there was an intimation of something both comic and frightening in that claim. There were intimations as well, in McChristian's early testimony, of the quality of "intelligence" he had in mind. "All of your reports, all of your studies," he said, rather typically, at one point, "go to your estimators. Your estimators have access to all types of intelligence, whatever it may be; and then they, taking into consideration the objective of the estimate, come up with their estimative procedures." Also, "They used the total estimate of enemy strength in the production of what we referred to as the estimate of the enemy situation, which is the apex of all of your intelligence activities;" and, "The intelligence officer is not only responsible for the enemy, but he is responsible to report on the weather, and the terrain and the enemy... but I won't get into it. They aren't as germane." Boies seemed serene with testimony of this sort, and the jury sat, as usual, with its yellow legal pads; but the primary reason the defense had, apparently, for calling this particular witness, and the only substantive testimony (germane, as the witness himself might put it, to the central issue of the trial) that the witness seemed placed to give, was this: that about two weeks before his



departure, on June 1, 1967, from Saigon for Fort Hood he had given Westmoreland, in the form of a cable, a briefing on revised estimates of enemy troop strength, which, McChristian said, he had proposed sending, over Westmoreland's signature, to both Admiral Sharp's command, in the Pacific, and the Joint Chiefs, in Washington. According to McChristian, Westmoreland had not only "blocked" the cable: "He looked up at me, and he said, 'If I send that cable to Washington, it will create a political bombshell.'"

Q. Sir, I want to ask you, are you absolutely positive General Westmoreland used the term "political bombshell" during that meeting?

A. Yes, I am. I am as sure of it as I am seeing people in front of me right now. I was so surprised by it that there were enough words said there that *burned themselves right into my memory*, and there were not many, but that was part of them.

There would, of course, be nothing inherently improper in a commander's using the words "political bombshell" in reacting to the suggestion of a subordinate, or in his taking the time to inquire independently into the basis of the subordinate's entirely new statistics—and McChristian's estimates were, according to documents and other witnesses, in fact transmitted within days to Admiral Sharp and the Joint Chiefs. But Westmoreland had testified in court some weeks before that the words "political bombshell" were "not in my lexicon." McChristian seemed to be calling into question Westmoreland's veracity on this mildly electrifying point. McChristian's interlocutor on cross-examination was not, however, Westmoreland's chief counsel, Burt, but David Dorsen, a widely experienced Washington attorney—who had served, for example, as assistant chief counsel to the Ervin Committee at the time of Watergate. Dorsen's low-key, almost gentle style seemed, deceptively, to verge upon the ineffectual as, in marked contrast to almost all the other attorneys in the lawsuit, he built up a case to be used later, in summation to the jury, rather than for immediate, transitory effect. This courtroom style is remarkably unsuited to press coverage (and the summations, of course, never came); but under Dorsen's cross-examination McChristian did not fare well. Seeming not to want to address, for the moment or perhaps at all, the question of the "political bombshell," Dorsen embarked on an

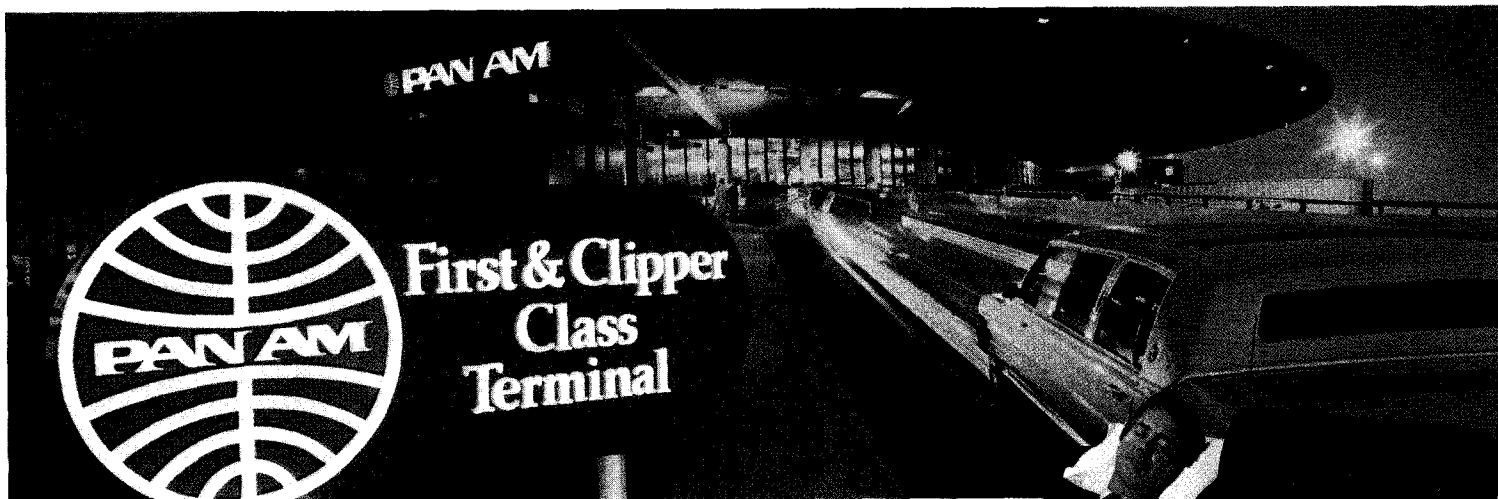
apparently innocent line of inquiry, which he had previously used on other defense witnesses, notably Sam Adams, to quietly devastating effect. McChristian had already testified, in support of his view of the superlative quality of American intelligence in Vietnam, that Order of Battle estimates were "updated" not just monthly, or even weekly, but "daily, if information warranted." Dorsen began, "General McChristian, if you had information on enemy strength that was not in the... Order of Battle summaries, that was relevant to a mission of an American fighting unit in the field, did you provide that information to the American unit?" The meaning of the question, which seemed to require a simple yes or no, was plain: Would the witness, a professional soldier, even granting, or at least supposing, that information was being suppressed (or "blocked"), on the orders of Westmoreland, from his military and civilian superiors in Washington, withhold that information as well from the American soldiers actually at risk of being killed? No intelligence official (even those who claimed to have acquiesced in the deception of superiors about enemy troop strength) could quite bring himself to say he had kept the truth from fighting units. And yet the estimates relayed to Washington and those conveyed to fighting units were the same. Dorsen's previous yes-or-no question had elicited from McChristian an answer of six unresponsive paragraphs. "Here again, Mr. Dorsen," McChristian now replied, "we are skating around hypotheticals and not talking specifics... but we are getting in a nebulous area, and I think it could be misleading, and I think it would behoove me to ask you to please give me the context of what you're talking about." The answer, such as it was, seemed wary enough (and the vocabulary was entirely, perhaps lamentably, characteristic not only of McChristian but of most defense witnesses who were former officials of intelligence); but McChristian did not seem intellectually equipped to sense the specific nature of the trap in this whole line of questions:

Q. Was there ever an occasion where you, to your knowledge, or your staff, to your knowledge, withheld relevant information on the enemy from the American forces in the field?

A. Did I personally—

Q. Or your staff, to your knowledge, fail to convey to American forces in the field relevant information on the capabilities of the enemy, whether or not [it] was in

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It was 1875. The year The All England Croquet Club set aside a rectangle of grass on Worple Road for an upstart sport. Lawn tennis.

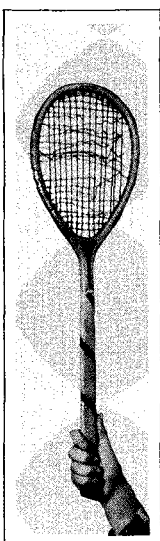


Spencer Gore, the tournament's first champion.

Soon rackets were as much in evidence as mallets. Britain's croquet bastion became The All England Croquet and Lawn Tennis Club.

Two years later, 200 spectators assembled at a shilling each to watch 22 amateur players serve and volley for a silver cup. Net-storming Spencer Gore, wielding a lopsided racket, became the world's first Wimbledon champion.

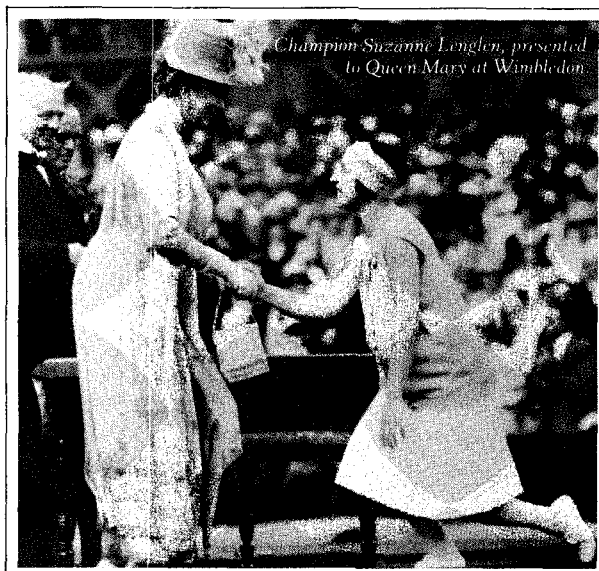
Today, that legendary lawn thrives on Church Road and has grown to 18 grass courts on 10 acres. Each a repository of revered memories. But none more storied than that cathedral of tennis mystique, Centre Court. A perfectly proportioned quarter-acre on which some of the sport's highest drama has been acted out.



A 19th-century tennis racket.

On this hallowed turf the world's finest players compete each June. A fortnight of riveting play from which emerges the champion worthy of the tournament's laurels.

From the crowds that queue up overnight for tickets, to the



Champion Suzanne Lenglen, presented to Queen Mary at Wimbledon.

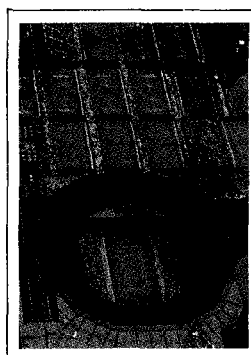
The legend that grew from a lawn in Wimbledon.

royalty, aristocrats, diplomats and celebrities invited to the Royal Box, 350,000 enthusiasts pack the grounds for the two taut weeks that are Wimbledon. An event so esteemed it has been called the tournament that transcends its sport.

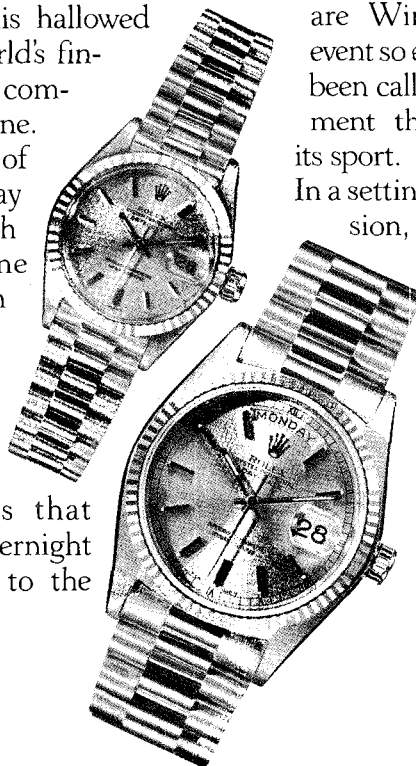
In a setting where precision, stamina and

style are revered, a timepiece must perform to intimidating standards.

That explains the Rolex on the scoreboard. And its designation as the official timepiece of Wimbledon.



Centre Court, where the finals are fought.



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the . . . monthly Order of Battle summary?

A. Mr. Dorsen, here again I want the context of that explained to me, to be able to give an accurate answer.

Dorsen, sweetly but inexorably, made ever more clear the "context" of the simple question—to which, of course, he had not yet received the simple "Yes," "No," or "I don't recall" upon which a lawyer with a perhaps more bullying style would have insisted. Did either McChristian or his staff acquiesce in the deceit (by which McChristian claimed to have been surprised, in the "blocking" of his cable) to the extent of keeping soldiers, as well, in ignorance, with the result that they were killed?

A. I personally flew in the airplanes . . . and I communicated to the units on the ground and sanitized the information. . . . We had a way of doing it and sanitizing it, and it was definitely in line with my instructions to my staff throughout that intelligence must get to the commander, who can do something about it, in time to do something about it.

Also,

And be specific on what you are talking about.

Dorsen having elicited, however ramblingly, from McChristian (as from other defense witnesses) that the "conspiracy" to withhold "estimates" from the White House did not extend to withholding them from soldiers in the field (and since the size of the enemy contemplated in those "estimates" was the same), the "conspiracy" crumbled, by implication, from the ground up.

Dorsen left the subject. He asked instead whether McChristian had happened to "learn, on your last day in Vietnam, that there was going to be a reorganization involving certain responsibilities for intelligence operations."

A. That's the end of the question?

Q. Yes.

And McChristian, having begun what appeared to be another rambling disquisition, about a dinner held in his honor at the American Embassy in Saigon with "key people, military and civilian" ("I was highly honored by this, and they were all very kind to me"), suddenly focussed on the question—not to answer yes or no but to reveal that at the Embassy dinner he had indeed learned that there had been a new study, and that although his plane would leave Saigon at noon the following day, he had asked to see it.

I was scanning this thing very rapidly, and the constant thoughts that were going

through my mind is, "... I wouldn't do it that way, this is wrong, this will destroy what I have been building..." I had a very, very negative reaction to that study. Of course, another thought kept going through my mind, "Why wasn't I involved in this?"

Distinct questions of bureaucratic turf were beginning to emerge. In response to the same yes-or-no question, McChristian embarked on another narrative, to the effect that, having learned that the study was prepared under the direction of Ambassador Komer, he had rushed first to the office of Komer himself (to whom he said, "I want you to know that it has not been coordinated with my staff. It has not been coordinated with me," and announced his intention to take the matter to Westmoreland); then to the office of Westmoreland (to whom he said, "Sir, I have just read this study. It was not coordinated with my staff. It was not coordinated with me"); then he had rushed back to his own office, grabbed his hat, and gone to the airport at Tan Son Nhut for the journey home. "And I assure you that I felt like I had been kicked in my stomach when I left there." This testimony had travelled a considerable emotional distance from "your estimators," and "their estimative procedures," and "hypotheticals," and "nebulous area." Two questions later:

Q. And is it correct that you developed an animosity toward Robert Komer as a result of that?

A. That is not correct, Mr. Dorsen. I have never taken animosity. I was very hurt. . . . Did I feel that I should have been involved in that study? Absolutely. Did I feel that I could have contributed to it? Absolutely. [Then an almost unintelligible ramble.]

Q. Isn't it true, General McChristian, that you loathed Robert Komer and you loathed [your successor] General Davidson?

A. No, sir, that is not true. I don't have that type of temperament in my body to

loathe somebody. . . . *I loved every single minute of my service.* . . . The next man to come in, it's best for him to do. Did I feel I should have been in on it? Yes. [More unintelligible ramble.]

Embedded in the ramble, responsive in no way to the original question (which, again, required, after all, only yes or no), were these sentences concerning General Davidson: "I never considered, like some people have reported, that we were rivals or competitors. That was no concern of mine whatsoever." Another sort of attorney might have pressed McChristian on some of the more emotional elements of his testimony (whether, for example, the moment when he felt as if he had been "kicked in my stomach" was contemplated in his having "loved every single minute of my service"); Dorsen, however, like some kindly though implacable therapist, continued in his own mild style.

Q. Didn't [General Davidson] undo some of the things that you did in Vietnam, and you resented it, General McChristian?

A. He undid, so I have been told, but I wasn't there. I don't know what he did. I had no resentment then. I have no resentment now. I made no effort to find out did he change anything I set up. . . . It was not my concern.

So far, whatever else it might reveal, the questioning seemed to leave untouched the matter of the "political bombshell." The word "loathe," a few questions back, however, had appeared so uncharacteristic of Dorsen's general manner and vocabulary that it seemed certain to be based on something other than his own surmise. And so it was. Immediately after the name "McChristian" in Samuel Adams' "list of sixty," upon which Adams and Crile had drawn for the production of the program, were the words "loathes Komer and Davidson." Cravath, of course, knew of Adams' list and notes (had, in fact, possession of them); so it came as no surprise when the witness, asked whether he knew of "any basis that Mr. Adams would have" for making such a note, should recover his composure sufficiently to reply, like a lawyer (or, more precisely, like a well-coached witness), "I can only testify to what I know, Mr. Dorsen, not what somebody else knows." Adams' notes, however, went on to quote McChristian purporting directly to quote Westmoreland. McChristian first denied having quoted Westmoreland to Adams, then briefly resumed his preoccupation with "context" ("I don't recall saying that. I'd have to see what-



ever context you have, Mr. Dorsen"), and, finally, denied that he had ever quoted Westmoreland to Adams or to anyone till now, when he was "sworn and under oath."

This (and perhaps something else by now in the demeanor of his witness) led Boies to request a bench conference, at the sidebar, because if McChristian's testimony on this point was accurate, then two of Boies' primary witnesses were at odds: Adams in attributing to McChristian a direct quote from Westmoreland, and McChristian in denying that he had ever quoted Westmoreland until he was obliged to, in this lawsuit, under oath. Boies argued long and hard (in the bench conference, outside the hearing of the jury) against the admissibility, on technical grounds, of Adams' notes to impeach McChristian's testimony. The argument was unsuccessful. It was followed, however, by a ten-minute break, and when McChristian resumed the stand he seemed to have resumed as well his early confidence and speaking style:

If General Westmoreland was interested in the intelligence... if he was interested in the criteria, the methodology, the definitions, certainly he should be asking me. But he didn't ask me any of those questions. All he stated was that he was concerned that if he sent [the cable] it would create a political bombshell and to leave it with him.

Though this answer was in no way responsive to the pending question (which would, again, have required a simple yes or no), McChristian dismissed as "hypotheticals," which he disdained to answer, all questions whether Westmoreland might have held the cable up for study and then passed McChristian's estimates on to his superiors (as, it was clear from other evidence, he had): "You would have to show me the context of that, Mr. Dorsen, for me to know." And he seemed content repeatedly to ascribe to Westmoreland the phrase "political bombshell," which must by now have been as ineradicably engraved upon the jury's mind as the witness claimed it had been, since that day in mid-May of 1967, upon his own. Then, to two simple yes-or-no questions about whether he had said (in a tape-recorded interview with Don Kowet, of *TV Guide*, of which he now had before him the verbatim transcript) the words "No, absolutely not" (in answer to Kowet's "Did you have the feeling, at any time, that you were being asked to suppress information?") and "I did not" (in answer to Kowet's follow-up

"You did not?"), McChristian replied, "He didn't ask me for the criteria, he didn't ask me about the definitions, he didn't ask me about the methodology."

Q. Do you recall whether [Kowet] asked you whether you felt you were being asked to suppress information, and you told him that you did not?

A. Mr. Dorsen, I don't recall specifically. I may or may not have said something like this. But I would like to see the context, please....

Now, the question, please.

Q. Whether Mr. Kowet asked you "Did you have the feeling at any time that you were being asked to suppress information?" and whether you answered "No, absolutely not," and whether Mr. Kowet said "You did not?" and you said "I did not."

A. O.K. I want to put this in proper context.

Q. Could I ask you first, General McChristian, whether you recall whether you said that to Mr. Kowet?

A. I want to put it in proper context first, and I will answer specifically. [Increasingly unintelligible gabble.]

Then, mildly and as if it were a matter of no consequence, Dorsen began to change the subject:

Q. Now, you testified, I believe, that the words "political bombshell" are burned in your mind, in your memory, is that correct?

A. Yes, sir, that's correct.

Q. Didn't you tell George Crile, when you were being videotaped, that you *didn't* recall the precise words that General Westmoreland used?

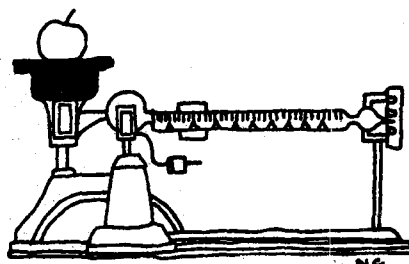
A. I would like to see that in context. I don't believe I said that.

But, of course, McChristian had said precisely that, and Dorsen had the videotape and the verbatim transcript. A few moments later, still to the question had he said the words or hadn't he, McChristian replied, in a sequence that (allowing for the absence, in the peculiar circumstances of the case, of melodrama) precedes, in soap operas, the disintegration of a witness on the stand:

A. At this time I again was trying to avoid—

THE COURT: I am sorry. I have to interrupt you. You are simply to answer the question that's asked of you....

A. ... This was not something I was



giving under oath.... I tried to avoid quoting General Westmoreland.... I knew, without quoting him, that he had said "If I send this to Washington it will create a political bombshell."

Q. You wouldn't have lied to Mr. Crile, though, would you have?

A. I would not lie to anybody.

Q. You remember Mr. Crile asking you, "Do you remember any of his words?" referring to General Westmoreland, and whether you said, "I can't recall his exact words at this time, but that is my strong impression..."?

A. Can you show me that, please? [Pause] Yes, at this particular time I was aware of what General Westmoreland had stated, and I was not telling him the exact words.

Q. You did tell—

A. I was giving him the gist of the facts that did happen.... I was of the opinion that if he sent it back to Washington it would create a political bombshell.... I may have said that.... Here I wasn't quoting it. This is basically the same thought, same words, I might say again, Mr. Dorsen, when this—

THE COURT: I'm sorry. If you are answering the question that was asked, you may answer it. But if you are providing comments, that is going beyond the question.

A. I will hold up.

This small exchange, about the words "political bombshell," attributed so firmly to General Westmoreland, and so ineradicably "burned... right into" the memory of the witness, effectively disposed of the matter, not so much on the spot (since Dorsen did not stress it) but for later, for the summation to the jury—which, of course, because of the Joint Statement and its timing, never came.

All these colloquies were interspersed with objections (unusual in number even for Cravath) and bench conferences, but the subsequent testimony, on cross-examination, of this witness, who (as the lore would have it) so demoralized Westmoreland, became even less impressive as it went along. It developed, for example, that McChristian was concerned not so much to get the contents of the cable, with the revised estimates, to Washington as to be the person delegated to present them there himself:

Q. Do you recall testifying [at your deposition], General McChristian, that you said, "General, let me take this back to Washington when I go, and let me brief them on what we are doing?" Do you recall whether you testified to that under oath, General McChristian?

A. [Some preliminary, rather sullen muttering and waffling.] I'm saying that I may have said this. You'd have to show me the context of it.

Boies spoke up with an interruption, not on the merits but, presumably, just

to remind McChristian, as lawyers sometimes do tend to remind a faltering witness, that he was not alone. Then:

Q. And correct me if I am wrong, General McChristian, that this is one of the times that you said you *couldn't be sure* or positive *what* you said to General Westmoreland, is that correct?

A. I tried to put it in context. [Several paragraphs, containing neither yes nor no, of particularly maundering disquisition.]

Q. Are you saying, General McChristian, that as far as you know, there very well could have been a briefing by your staff of Admiral Sharp, containing all the materials in the cable you presented to General Westmoreland, and you *just may not have known about it*?

Dorsen had by this time conclusively established that McChristian's staff had in fact conducted such a briefing for Admiral Sharp, on May 19, 1967. Whether McChristian himself was there remained unclear. McChristian said he had "no recollection" of having been there, and added, "I have no knowledge of such a briefing having taken place at that time, no."

Q. Are you saying—let me ask you this, General McChristian, did you make any *affirmative effort*, in the last two weeks you were in Vietnam, to *find out* whether the material that was in your cable *was communicated* to any of General Westmoreland's *superiors*, military or civilian?

A. The fast answer to your question is that I have no recollection of having looked into that or any other ongoing action in my staff.

In this seemingly flat, frequently rambling and unresponsive testimony, McChristian had unwittingly taken away all that he had seemed, as a defense witness, to offer: he had not remembered, at the time he was interviewed for the broadcast, the "political bombshell," which he claimed had been burned into his memory; he had cared so little about the revised estimates, in the cable he had presented to Westmoreland, that the moment he found he was not being delegated, personally, to forward the information he lost interest in it—did not trouble, for instance, to brief fighting units (or even understand the meaning of questions about whether he had done so), or to find out whether members of his own staff had briefed Westmoreland's superiors with precisely the information McChristian had proposed. Suddenly, in an almost absent-minded way, Dorsen produced a letter, signed by McChristian, and dated May 21, 1967, to Ambassador Komer calling Komer's attention to the appointment by Westmoreland of a new commit-

tee, "to review this new estimate [of irregular forces] as well as the infrastructure study," in what had become known as the McChristian Report.

Q. Isn't that *exactly what you wanted*, General McChristian?

A. Wait a moment. I haven't finished answering. . . . I asked nobody about this committee. . . . I knew nothing more about it. [Almost a new order of defensive ramble.]

Finally, Dorsen raised one other, relatively minor matter:

McChristian's having protested, after the broadcast, the splicing of one of his own answers not to the highly abstract and hypothetical question he had actually been asked but to a concrete, specific question, about Westmoreland, that he had not been asked at all. Dorsen asked whether McChristian ever "came to the opinion that an answer of yours to a hypothetical question had been edited" to appear to be an answer to a real one. McChristian, aware that almost two years after the broadcast he had signed a sworn affidavit to precisely that effect, interrupted:

Came to the what?

Objection from Boies, who did not want anything from the affidavit introduced, or, failing that, wanted to give the witness time to think. Bench conference. Objection overruled. But Dorsen, whose litigating method did not include reducing the other side's star witness to too obvious a self-serving and less than honest fool, abandoned the matter of the affidavit anyway.

In trying to resuscitate his witness on redirect examination, Boies began by asking McChristian why he had shown "some reluctance," in the videotaped interview with Crile, to quote Westmoreland's "exact words."

A. . . . I just didn't want to have any dirty laundry taken care of in public.

But then, entirely in the Cravath spirit, Boies went perhaps too far. He tried to introduce what purported to be McChristian's handwritten notes of a telephone conversation with Westmoreland, in 1982, after the broadcast was complete. Objection—this time from Dorsen. Bench conference:

THE COURT: If you plan to offer this, why do you think you should be allowed to offer it?

MR. BOIES: Because, your Honor, the plaintiff has put in issue this witness' credibility . . . this witness' alleged loathing for Mr. Komer and Mr. Davidson.

THE COURT: What does that have to do with this?

The bench conference, in which Boies tried to demonstrate what relevance notes of a telephone conversation, in which neither Komer nor Davidson was mentioned, between McChristian and Westmoreland, after the broadcast was complete, might have to the question of the witness's credibility in claiming not to have loathed Komer or Davidson ever since 1967, took a

long time—during which, of course, the jury and the courtroom spectators heard nothing. Boies pursued his position so aggressively that he evoked from Judge Leval, on the record, such comments as these:

THE COURT: . . . Mr. Dorsen brought out that he lied, that he said to Kowet or somebody, or to Kowet and to Crile, "I don't remember"—it was one of those things where, according to Mr. Dorsen's argument, "You're either lying now or you were lying then, because you then said you don't remember the exact words, and today you say, 'They are etched into my mind, I could never forget them.'"

And, later:

THE COURT: I don't think I would have a problem with it if the only thing that was involved was the question whether the witness made it up or not. . . . But the problem is that the particular piece of evidence [McChristian's 1982 notes] has a more prejudicial effect than just supporting the witness's credibility as against an attack of recent fabrication, because it puts down in writing a statement attributable to General Westmoreland which General Westmoreland denies. . . . which is quite a different thing than the basis for your offering it, which is to explain why he, McChristian, gave a weaselly answer or a false one to Kowet [and Crile].

These are strong words to elicit from a judge, even at the sidebar; and Boies proceeded, in open court, to take up a line of questioning that provoked the judge to summon him (with the words "Are you contending that this was covered by our discussion at the sidebar?") to another bench conference, where there were further comments awkward for his version of the case:

THE COURT: You don't challenge, do you, the proposition that General Westmoreland had a perfect right to delay the sending of that cable, if the purpose of the delay was for General Westmoreland to acquaint himself with reasonable speed with the information underlying it and making a judgment of its accuracy, do you?

After a somewhat grudging concession on this point ("If the court has a problem with the . . . question, I will

pass it, because it's not a matter of enormous significance"), Boies immediately introduced an argument that he should be allowed to elicit from McChristian his views of Colonel Graham (the intelligence officer who appeared on the broadcast for twenty-one seconds): "And I think I am entitled to do that."

THE COURT: Wait a minute. In order to bring out what? Mr. Dorsen asked his views of Davidson and Komer, seeking to elicit that he had a hatred of Davidson and Komer... whether the purpose was one or the other or both of suggesting that either it led the witness to lie about them... and about General Westmoreland, or... to simply an error of judgment in his appraisal of all of this.

Now, that was suggesting a *bias* on the witness' part that affected either the honesty of his testimony, or the accuracy of his testimony even assuming honesty. Now, what's your purpose in asking his appraisal of Graham?

MR. BOIES: I believe that will support the accuracy of the witness' appraisal of what was going on.

THE COURT: Is he going to say negative things about Graham?

MR. BOIES: I think so, your Honor.

MR. DORSEN: General Graham didn't arrive there for weeks and weeks [after McChristian left Saigon], for one thing.

THE COURT: I don't understand.

MR. BOIES: Your Honor, I will pass the Graham question.

THE COURT: All right....

MR. BOIES: It's not of enormous significance.

It was Boies' style in bench conferences to argue fiercely and articulately for a position (often that he was "entitled" to do something, or that it would be "unfair" for opposing counsel to do it), and if the ruling went against him, to say that the whole question was "not of enormous significance." The phrase seemed a way of shrugging off the natural litigator's disappointment that *any* ruling should ever go against him, and diminishing the importance of the ruling; it was also an instance of the Cravath style of having, in all discussions, and even after the judge himself has spoken, the last word. At one point in the same bench conference, Dorsen, apparently incensed by Boies' efforts to introduce yet another piece of what Dorsen considered and Judge Leval agreed was inadmissible evidence, said, "Of course, the [Order of Battle] wasn't increased. The question is whether it was done *dishonestly*"—which was, of course, the whole point of the program, and, for that matter, of the lawsuit. And the striking point about these bench conferences, so near the closing days of trial, was that, at the sidebar, as in open court, Dorsen, far

from failing, as did Westmoreland's chief counsel, Burt, to make timely and apposite objections (and further still from being so apparently in awe of Boies as to look, as did Burt, not toward Judge Leval but toward Boies for rulings), again and again prevailed.

When this particular bench conference was over, Boies resumed trying to resuscitate his witness. He read from a note McChristian had received from Westmoreland in March or April of 1982:

Joe, here is the letter I mentioned on the telephone. CBS has maliciously, or through ignorance, confused my demurring in increasing the [Order of Battle] without further analysis with your constant theme that the enemy had the capability to pursue a war of attrition, to which I fully agreed.

What this meant to the jurors with their yellow pads was difficult to imagine. Perhaps some, with their graduate educations, might have extracted from Boies' reading of it at least the meaning that (1) General Westmoreland had demurred (or declined) to increase, without further analysis, the Order of Battle, to the "new estimates" proposed in McChristian's cable of mid-May of 1967, and (2) General Westmoreland had fully agreed with McChristian's view that the enemy could sustain a war of attrition, with the result that (3) a declining, without further analysis, to increase estimates, coupled with an agreement that the enemy was strong enough to sustain a war of attrition, equalled— Well, the question was what it equalled. An intention to deceive? And, if so, whom? Boies almost immediately abandoned the subject of this at best ambiguous note and asked instead whether "in or about June of 1984" Westmoreland had tele-

phoned McChristian and "told you, in words or in substance, that you were both expendable": "A. Yes, sir... Q. And was that in connection with this lawsuit? A. Yes, sir."

Leaving this further mystery, in all its dramatic language ("both expendable" to whom, for what, and in what way?), unresolved, Boies said simply, "Your Honor, I have no more questions." Or not so simply.

THE WITNESS: May I explain something on these, your Honor? [It seemed, for a moment, that McChristian was about to resume, this time perhaps on point, his language of "estimators," "criteria," "nebulous area," even "context."]

THE COURT: No. No speeches. Only answers to questions.

MR. BOIES: Your Honor, let me just ask one question. I think I know what the witness has in mind, and I probably should clarify that, with the Court's permission. [And it became clear at once that the witness's question had been, in no sense and by no means, spontaneous.]

THE COURT: All right.

It turned out that Boies' question was whether the notes and letters from McChristian's files had been produced "pursuant to a subpoena in this case."

Q. Was that subpoena served on you by plaintiff's counsel, if you recall?

MR. DORSEN: Objection, your Honor....

THE COURT: Sustained.

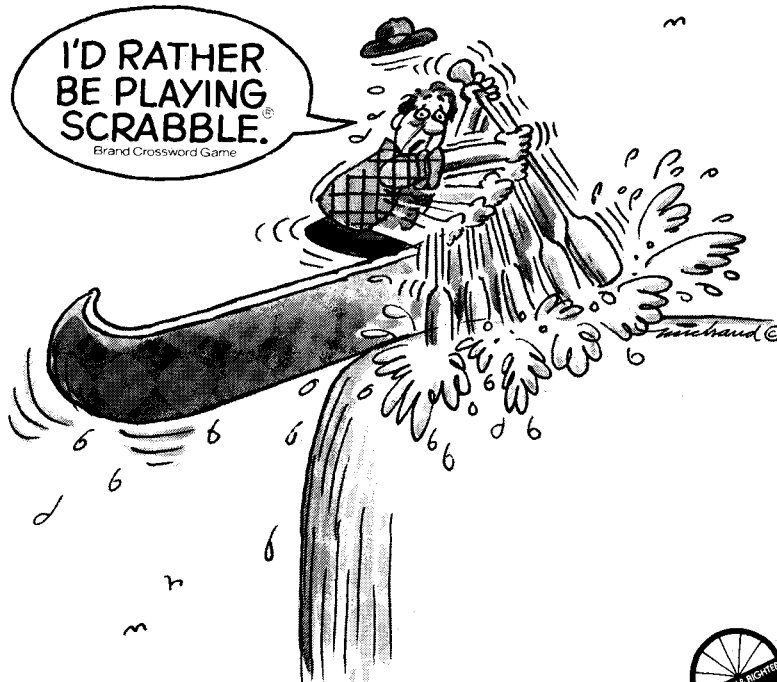
The objection was sustained because the question was irrelevant and had no legal meaning: in discovery, documents are *always* produced in response to opposing counsel's (and, obviously, not one's own counsel's) subpoena. But the witness, having preserved, in a way that could not have escaped the jury's attention (and his counsel, having abetted him in this by introducing a question whose answer would be inadmissible), that small, deceptive implication of honor—that he would not have betrayed the confidence of his fellow West Pointer and former commander unless he were here and, under oath, obliged to—left the stand.

A NORMAL day in federal court begins at ten and ends by five, with an hour's break for lunch. It seems, in short, to occupy less than six hours, on each of five weekdays, and to be interrupted not only by weekends and holidays but by other delays and recesses called for various reasons by the judge. In reality, however, litigation on the scale of Westmoreland and Sharon occupies a twenty-four-hour day and proceeds throughout a seven-day week. The judges meet, in chambers or in the robing room, with the



attorneys, and then draft and issue rulings. The attorneys draft briefs on various points on which the judge will rule. In addition, the attorneys review every evening the transcript of the day's proceedings, and prepare their strategies, questions, and even witnesses for the following day. For law firms with the resources of Cravath, Swaine & Moore or Shea & Gould, with their quantities of experienced attorneys and recent graduates of law schools, the pressures of litigation are to some degree distributed. When the main team of litigators has completed its day in court, a night team is available, from 10 P.M. till 6 A.M., for briefing points, highlighting and collecting sections of depositions and trial transcripts for the major attorneys in the case to peruse before the next day in court begins. Dan Burt, however, having never tried even a minor jury case before, had no major law firm or night team behind him, either. Apart from Dorsen, he had a few young attorneys from here and there, and the occasional advice of one other experienced litigator, George Leisure; that was all. Even Boies, with his formidable experience and aptitude for litigation, gave signs of feeling the case's extraordinary pressure; he often perspired clear through the jackets of his suits. But Boies took off an occasional weekend, gambling in Atlantic City. Burt, accustomed to working on his own, and apparently not quite trusting even his own associates, engaged in increasingly frequent conversations with Boies about his own conduct of the case, and became perceptibly more taut and defensive with other people, as the trial progressed.

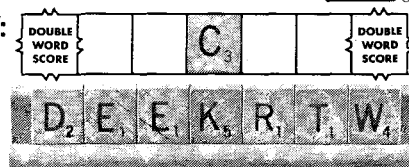
THOUGH Colonel Gains Hawkins was CBS's only military witness equal in importance to General McChristian, the morning of Hawkins' testimony in Room 318 of the federal courthouse (February 12, 1985) began in a more than usually stupefying way. Judge Leval made a little opening joke ("You have waited a long time for this, and you're now going to get to hear..."), and even Boies said, "I know it is not as exciting or as interesting as having people live, but where we could not bring the people live, we nevertheless thought their testimony was important, and that's particularly true of Colonel Russell Cooley," whereupon, with Victor Kovner, Crile's chief attorney, playing the role of Cooley on the stand, Boies and Kovner began to



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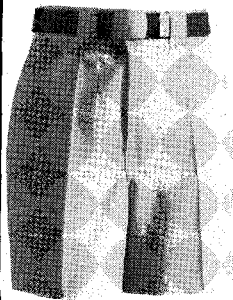
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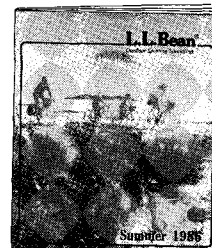


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read, to the jury and into the record, "the balance of the Cooley deposition." Colonel Cooley, it turned out, had arrived in Vietnam in October of 1967 and within days received the impression that his immediate boss, Colonel Everette Parkins, had been "fired" for estimating the rate of North Vietnamese infiltration into South Vietnam at twenty thousand a month—a figure considered far too high not only by other American intelligence analysts at the time but also by every competent source, American or North Vietnamese, in the fifteen years between the alleged "conspiracy" and the time the broadcast was produced. But although Cooley's vocabulary was entirely consistent in reflecting the quality of *thinking* in those people entrusted at the time, and, no doubt, to this day, with "intelligence"—

That was outside our functional area...

The fact—I think you're getting into a wordplay here, and that's what he's doing, is whether he includes the unit by nomenclature or how it's caveated in the document. . . . I think you're mixing apples and oranges here. Let me make it clear. . . . I've referred to this as our methodology, of enemy strength calculations. . . . what I have referred to in several cases here as a system of guerrillas coming, you know, as a slop factor. . . . In the parlance of the word "slop," this means that that was another of these areas that typically got hit, because it made it very, very easy to come back and say, well, the guerrillas just aren't as high because we want the figures to be lower—

the *content* of his deposition contributed almost nothing to the case. At the sidebar, when Boies had finished his reading, Judge Leval considered whether he might find it necessary to point out, for example, that Colonel Cooley could not properly be described as Boies had described him, as an "infiltration analyst," since his field of intelligence was not infiltration; that Cooley did not know, one way or the other, why or whether Colonel Parkins was or was not "fired," since Cooley had not been there at the time, and could only testify concerning "rumors" about it; that Boies should not be permitted to leave the jury with the impression that "we could not bring people live" in cases where Cravath, for its own reasons, preferred a deposition, read into the record, to a witness, present and subject, under oath, to cross-examination; that Cooley's parenthetical remark (which had appeared also in the testimony of

several other Cravath witnesses) "And, again, I've got to say I think history bears this out" should be stricken from the record, of Cooley and all other defense witnesses. In fact, though Judge Leval immediately instructed the jury that some of Cooley's testimony was inadmissible, the only mildly illuminating element of what Cooley had to say was inadvertent, and concerned the transaction that occurs between witnesses and attorneys before cases come to court. Cooley was testifying about his impression that Colonel Danny Graham had dishonestly "altered the data base;" that is, the figures, reflecting estimates of enemy troop strength before Tet, which were stored, and of course continually altered, in the computers of American military intelligence in Vietnam.

Q. O.K. Let me ask you what exactly do you mean by the phrase that you used several times in that answer, "alter the data base"?

A. I'm quoting it, parroting back your words, as well as what we've seen in some testimony here.

Q. Do you have a definition of your own, or—

A. "Alter it" obviously means to change it.

Q. O.K. But all changes of the data base are not per se nefarious, are they?

A few questions later, witness and attorney were "parroting back" the words "per se" and "nefarious" as well, but this particular exchange continued:

A. Well, I think if we're going to split words here, there are several ways you can alter it, O.K.? One is with merit and the other is without merit, if you want to put it in a very broad sense, O.K.? One says we're just going to alter it just because we think, and the other says we're going to alter it because *we have hard intelligence* to back it up.

This exchange, in the course of the deposition of a relatively minor witness (who had nonetheless been one of the eight people who appeared, more or less in support of the program's thesis, on the broadcast), whose testimony was simply read into the record (though its salient points, such as they were, might subsequently be stricken as inadmissible), and who never actually took the stand, was an almost perfect distillation of the travesty at the heart of the program and of the case: the intelligence bureaucrats firmly believed that their own "estimates," in a guerrilla war, after all, and in an alien country, constituted, as

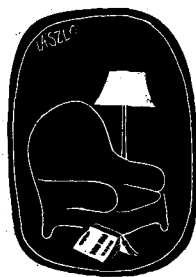
opposed to the other fellow's, "hard intelligence," and that any disagreement or rivalry with other bureaucrats was never what McNamara, of the Defense Department; or Carver, of the C.I.A.; or Davidson, McChristian's successor as chief of American military intelligence in Saigon; or Graham, the intelligence officer of the twenty-one-second interview, and Godding, the actual head of the M.A.C.V. delegation to the August, 1967, conference at Langley, along with other high military and civilian officials, would characterize as good-faith "honest differences" or "a difference in [the] judgment of honest men." It was, rather, nothing less than evidence, as Cooley's deposition would have it, of "per se nefarious" conspiracy.

In the afternoon, the second (as the fable had it) formidable military witness, Colonel Gains Hawkins, took the stand. Hawkins had been Order of Battle chief in Vietnam between February of 1966 and September of 1967. In 1970, he retired from the Army. Since 1981, he had run an old-age home in the town of West Point, Mississippi. "Order of Battle per se," Hawkins was soon explaining, "is the military forces of any country." Within minutes, in the second paragraph of his answer to a yes-or-no question, he added, with unmistakable pride:

When I arrived [in Vietnam], the Order of Battle, monthly Order of Battle summary, was about a *quarter of an inch* thick, and when I left there, a little better than eighteen months later, it was about an *inch*—a little better maybe than an *inch* thick, because our requirements had grown during that time along with our capability to process and to produce Order of Battle intelligence.

Sam Adams and attorneys from Cravath had travelled fifteen times, since early 1983, to Hawkins' old-age home in that small Mississippi town to prepare Hawkins for his sworn testimony on his deposition and at trial; and at first he seemed rather like a candid, convivial anecdotalist and a well-rehearsed, clownishly beguiling witness. In fact, on direct examination Hawkins seemed so eager to oblige that he often finished his answers to Boies' questions with a question of his own: "You're focussing strictly on the guerrillas, sir, on the irregulars, sir?"; and, "Does that get you where you need to be?"

Within a short time, however, he showed an irrepressible need, almost aimlessly, and without limitation, to prattle. "[The estimates] were some-



what lower, but they did not make a difference in the magnitude. . . . You take a hypothetical figure of 100,000, that figure, using the techniques and methodologies, could actually be 105,000 or it could be 95,000. It is an order of magnitude, nothing more, nothing less."

And,

This is our methodology. This is our criteria. There is the best that I can do.

And, in another mode:

A. [In captured documents] the system, they had sort of an overlap system . . . reduced the—you know, the lying possibility there. I never found a document in Vietnam which I thought was intentionally forged. Some were perhaps a little bit, maybe optimistic, as were some of ours, but I think it's the analyst's problem to take in all of these documents, and put them together, and meld this and extract this information and meld it together and develop the picture of the—the composite picture of the enemy, and that is where the integrity comes into the act.

It's like a journalist sometimes, but that's not my business, but integrity—

THE COURT: Colonel Hawkins, I think you are getting beyond the question.

THE WITNESS: I'm sorry, sir. I am wrapped up in the subject. If you would tap me on the shoulder, I will shut up.

And:

A. . . . a program called Operation RITZ, R-I-T-Z, which was directed at the guerrillas, the irregulars, and a program called Operation Corral, just like in corral, which was directed at the political, political infrastructure, to develop valid strength figures on what General McChristian referred to as the political Order of Battle strength.

Does that get you where you need to be?

Q. Yes, Colonel Hawkins.

A. Or whatever.

Q. Yes, Colonel Hawkins. You gave me what I needed to know, and you also went to the political Order of Battle, which was going to be my next question.

A. I'm sorry. I just get overworked, you know; enraptured with this.

Two questions later:

A. In the RITZ program, that collected information on the guerrillas, the self-defense, and the secret self-defense. The whole schmeer.

One question later still:

A. Yes, yes, yes, indeed, indeed. I misunderstood your question at first.

In addition to "the methodology" and "the criteria" (always used in the singular) and "meld [also "amalgamate"] this and extract this information and meld it together," the odd Yiddishism "the whole schmeer" recurred in Hawkins' testimony. So did the extreme eagerness to oblige reflected not just in "Does that get you where you

need to be?" and "Yes, yes, yes, indeed, indeed" but also in the virtual shrug of submissiveness embodied in the answer (which also recurred in Hawkins' testimony) "Or whatever."

No matter how rambling and technically inadmissible Hawkins' answers to Boies' questions were, the persona of the amiable cornball on the stand made it difficult for opposing counsel, Dorsen, to raise objections—without himself appearing to be an ogre or an unamiable spoilsport. The two principal substantive reasons for Cravath's having called Hawkins as a witness were that at one briefing in May and another in June of 1967 Hawkins had received the impression that Westmoreland had rejected, as "politically unacceptable," new and higher estimates of the number of irregulars to be included in over-all enemy troop strength; and that at the joint conference of civilian and military intelligence officials at Langley in August of 1967 he received the impression that there had been a military "command position" that estimates of total enemy troop strength were not to exceed three hundred thousand. But despite Cravath's and Adams' fifteen visits to him in Mississippi Hawkins' memory and capacity to focus soon began to fail him. Very early in his rambling testimony, the witness heard a sympathetic but rather firm instruction:

THE COURT: Let me just interrupt to say that, as you now get into areas of testimony that have been the subject of particular debate in this case, I want you to be sure to limit your answers to exactly what is asked.

THE WITNESS: Yes.

THE COURT: If you are asked about a

conversation, state your best recollection of what was said at that conversation. Of course, I understand that you can't be expected to remember word for word what was said seventeen years ago, but your efforts should be to tell the substance or the words of the conversation as closely as you can, rather than telling what emotional effect it might have had on you, what you felt. Limit your answer to the question that is asked, rather than straying beyond into other matters.

But Hawkins, it seemed, could not help, indeed, quite revelled in, "straying beyond." From his briefing of May, 1967, Hawkins claimed to recall that Westmoreland had said, "in substance," that the new estimates were "politically unacceptable":

A. . . . and I repeat, the substance of the other statements was "What will I tell the President? What will I tell the Congress? What will be the reaction of the press?" And there was another statement that I did not mention before, which was, in substance, "We'd better take another look at these figures."

But in response to questions from both Boies and Judge Leval his memory simply would not quite stay fixed. Four rambling answers away, for instance, from a question whether he remembered who else was present at this May, 1967, briefing, he said, "Yes, there were other people there. But I cannot recall who these people were." A few questions later:

Q. Did General Davidson [McChristian's successor] indicate to you why these higher estimates were unacceptable?

A. In substance, for the political impact they would carry. I never heard any criticism of our methodology. In fact—may I carry on from here?

THE COURT: No. Stick to the question, please.

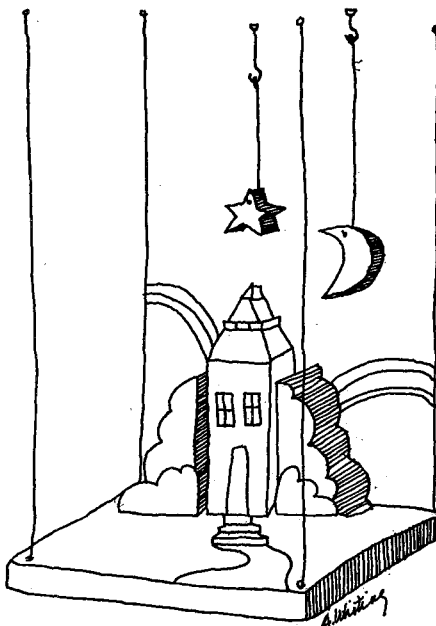
THE WITNESS: I'll shut up.

Of the June, 1967, briefing, Hawkins could remember only one thing: that Ambassador Komer had said, "in words or in substance," "This is Byzantine." But what was "Byzantine" he did not recall. Since the May and June briefings were the only two direct contacts Hawkins had with Westmoreland, his testimony was not very illuminating about the central figure in the case. In due course, however, Hawkins testified that he himself gave orders to his subordinates "to reduce their enemy-strength estimates" before the joint conference at Langley:

Q. Did you believe those orders were proper orders, sir?

A. They were not, sir.

The difficulty with this exchange was that while the "orders to reduce" estimates of enemy troop strength



which Hawkins claimed to remember may "not" have been "proper orders," they were, by Hawkins' own testimony, orders given only by Hawkins *himself*; and Hawkins, of course, was neither the "conspirator" in the broadcast's thesis nor the plaintiff in the case. No matter how many times Boies reformulated his question (after objections from Dorsen, and a suggestion of possible reformulations by Judge Leval), Hawkins was unable not only to connect any ceiling on estimates of enemy troop strength to Westmoreland but to find a basis for any such ceiling in "orders" by anyone above himself.

Q. Colonel Hawkins, when you gave the intelligence officers to whom you gave orders to reduce their enemy-strength estimates, were you carrying out the orders or instructions of anyone else?

A. Yes.

It seemed, here at last, that Hawkins would respond with a straight, comprehensible, unwavering, and perhaps (from Westmoreland's, or, at least, some superior's, point of view) devastating answer. But:

Q. Whose—?

A. I worked directly, for the most part, with Colonel Charlie Morris... and I ordered the appropriate officers to make the changes, and I made some of the changes myself.

So the answer was, again, not responsive to the question, was, in fact, yet another preposterous evasion; the answer to who ordered whom was only, again, Hawkins ordering some nameless persons. And, as throughout the months of trial, there seemed no consciousness on anybody's part that what was "changed," or "reduced," or "altered," was not solid, verifiable fact but "estimates"—based on what some witnesses liked to call "extrapolations," or, perhaps more frankly, "guesses." Suddenly, Boies appeared to have reformulated the question in an odd way:

Q. Did those estimates that you presented... at the August 1967 conference represent your best estimate of enemy strength?

Which elicited an odd answer:

A. No, sir, they did not. They represented crap.

And, of course, what Boies was trying to do, with the witness's enthusiastic, and, for the moment, precise, cooperation, was to justify retroactively one of the broadcast's more egregious elisions: the splicing of Hawkins' characterization of *South Vietnamese* estimates of enemy troop strength before

1966 onto the question of the figures Hawkins had presented in August of 1967 to the joint conference at Langley, on Westmoreland's behalf. This tactic provoked an objection from Dorsen and, in the ensuing bench conference, a remark from Judge Leval: "I don't think it's a proper issue what Crile did with the film tape. It is what it is, and it's visible to everyone... The issue is what he told Crile." So, hoping to elicit from Hawkins that he had used about the August, 1967, estimates at Langley, somewhere, off-camera, the word "crap," Boies soldiered on, with a question that, perhaps, he came to wish he had not asked:

Q. Were you also interviewed by Mr. Crile, other than on film?

A. I must have spoken in person and on the telephone with Mr. Crile about ten, eleven, or twelve times, from about the time I sat in his apartment in that overstuffed chair with the tufts out, and between the time that the documentary was aired. In fact, he came to my room—Am I going too far, sir?

THE COURT: No.

THE WITNESS: In fact, the interview was conducted in the afternoon. It lasted about two, two and a half hours. I was—the CBS staff had delivered tickets for my wife and I to attend a play that evening. The title of the play, ironically, was "Ain't Misbehavin'."

THE COURT: I think perhaps now you are going a little too far...

THE WITNESS: I called Mr. Crile and told him that I would like to relinquish these tickets, because I was mentally and emotionally exhausted, and that I would just rather stay in the hotel that night and have two or three martinis and a dinner, and he came over and we spent an hour or two talking, and I think I opened up to him more then, because I was pretty tight. I mean, not martini tight.

And here the impression of the convivial anecdotalist seemed not alto-

gether unconfirmed. Four questions later (including two by Judge Leval), Hawkins, whose mind had wandered once—"Sir, I'm sorry. This is unforgivable, but I was involved in thinking, and I will try not to do it again. I would like to have the question reread"—finally gave the answer at which all this arduous questioning was directed:

A. I told Mr. Crile, in effect, that they were crap, the figures that we brought to Langley were crap.

After this small triumph of advocacy, the courtroom was sufficiently exhausted to welcome Boies' suggestion of a break. When the witness returned, fifteen minutes later, however, presumably refreshed, it turned out that what had always been missing was still missing: any link between the orders Hawkins claimed to have given to his subordinates and some order, by any military superior of Hawkins', which might, in turn, be linked to any order by General Westmoreland himself. From "crap," then, the key, sought-after words became "command position." Hawkins testified readily to his "understanding" that there existed a "command position," and that his "understanding" of it was "that there was a ceiling of 300,000 and we would not exceed that ceiling." But from that moment on his testimony proceeded, or deteriorated, to the point where Judge Leval began to find it necessary repeatedly to intervene.

THE COURT: It seems to me that it would be necessary for you to bring out what that understanding was based on for it to be proper testimony.

Q. Colonel Hawkins, a moment ago you testified that it was your understanding when you went to the August, 1967, Langley conference that there was a... command position not to exceed a total enemy-strength number of 300,000. Do you recall that?

A. Yes, sir.

Q. What was your understanding based on, sir?

A. It was based upon all of the instructions that I had received, everything that I had done before I got to Langley, with all the papers and with the slides that we had presented to show a command position not in excess of 300,000. [Further unresponsive ramble.]

MR. DORSEN: Your Honor, I object. I think I would like to move to strike the prior answer on the ground that there is no foundation that this witness has demonstrated for a command position.

THE COURT: I would agree that the prior answer did not demonstrate a foundation.

After several tries, Hawkins produced this:

A. The first indication I had from Gen-



eral Westmoreland was the May and June briefing, which I briefed to him figures in excess of 300,000, which were not accepted, and I believe I have testified earlier as to the substance of General Westmoreland's remarks at that first May briefing in regard to these higher figures and what impact they would have. Should I—?

THE COURT: You may continue to answer the question.

THE WITNESS: May I continue to answer the question?

THE COURT: As long as you limit yourself to the question.

A. Later on, I had several contacts with General Davidson and Colonel Charlie Morris.

In response to the very next question, whether the "substance" of what General Westmoreland had said to Hawkins at the May briefing did "lead you in whole or in part to conclude what you have testified you concluded," Hawkins replied with uncharacteristic brevity:

A. Definitely did.

But that's *all* Hawkins said, and Boies was in the increasingly obvious position of trying unsuccessfully to tie anything Hawkins said he "concluded" to anything said, even "in substance," by any of Hawkins' military superiors, including, of course, General Westmoreland. Cross-examination had not even begun, but Hawkins, for all his eagerness to oblige, was nattering uncontrollably:

Q. What did General Davidson say to you, in words or in substance, if anything, that led you to reach any conclusion about a . . . command position?

A. In substance, the only—I don't recall the conversations except in substance, but the substance was we were going to attrite this enemy, and eventually, after several conversations of this nature, I told General Davidson that—and Colonel Morris—that "Look, this is the way we have developed this Order of Battle estimate, this is our methodology, this is our criteria. . . Now, if you want a different figure you need to change the rules of the game."

Until he reached this:

And this was the beginning of the reduction of the figures. I abdicated my position as Order of Battle chief, because I realized that I was—

THE COURT: Just a second. . . The jury will disregard the last few words of the answer.

Because, of course, Hawkins had again replied with what he himself had said ("this is our methodology, this is our criteria," etc.) in answering the question of what was said to him. Boies struggled on, but the witness continued, in his own manner, to testify that he himself had ordered reductions, he himself had reduced esti-

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mates, until Boies' failure to elicit that he had done so *on the basis of some higher order* began to look like a not entirely ingenuous effort to conceal, by the sheer amplitude, repetitiveness, and apparent candor of Hawkins' own confessions ("I abdicated my position," "I ordered the appropriate officers to make the changes, and I made some of the changes myself"), that there *were* no such higher orders. Finally, pretending that he had, after all, elicited from the witness a link to the key words "command position," Boies announced that he was turning to another subject.

Judge Leval, however, immediately interrupted, to summon both counsel to a bench conference at the sidebar.

THE COURT: I don't think you have covered it. I think Mr. Dorsen's objection, as it now stands, is a proper objection. . . . I just wanted to point out to you that in my view you have not laid an adequate foundation for his testimony that there *was* a command position.

MR. BOIES: . . . What I asked him was what his understanding was as to whether there was a command position, and it seems to me he is clearly a competent witness to testify what his understanding was, and his understanding . . . is relevant in and of itself.

THE COURT: Well, it's of marginal relevance.

MR. DORSEN: And great prejudice.

THE COURT: It's of marginal relevance and great prejudice, unless his understanding was based on *communications from upstairs*. . . . He testified that he had these conversations with Davidson and Morris, but he only gave his half of the conversations. . . . He said, "The whole history of my preparation led me to believe this," but he didn't say what it was in the history of that preparation that could have communicated that message. . . . The other thing is that the events of the second briefing of General Westmoreland—I don't think he has testified to what happened at the second briefing. . . . The principal relevant point is . . . whether orders *were coming down* that constituted a command position, rather than [what] he understood. . . . I think it's a point of such importance that it deserves being presented as clearly as possible, what that conclusion is based on.

But the witness, many questions later, was saying yet again ("I . . . told him, 'Son, this is the command position. I hate to do this to you . . . ' I went through his methodology, and I directed him"), in his seemingly rambling, bumbling way, what he himself had said and done. Boies managed, at last, at least, to get Hawkins to claim that he had said the same sort of thing to Crile:

Q. Did you discuss with Mr. Crile, in 1981, who was responsible for the dishonesty of . . . enemy-strength figures?

A. I told him it went back to Westmoreland himself.

But the very next, in fact, the key, question—

Did you discuss with Mr. Crile *why* you believed that it went back to General Westmoreland himself?—

elicited another senseless and maudering reply:

Because General Westmoreland had established a ceiling, and that no competent intelligence analyst can function under the ceiling that had been established.

Because, of course, precisely the point at issue was that in Hawkins' entire testimony there was still no evidence whatever that Westmoreland or anyone else had informed Hawkins that any ceiling did exist. Within a short time (and still before cross-examination had even begun), the witness was confusing McChristian and Westmoreland, in an increasingly clownish prattle that wandered further and further from any specific question and from any point at issue in the trial:

A. I briefed General McChristian on the 29th of May. I briefed General Westmoreland on the 28th of May. Not briefed, excuse me, sir, I retract that. I did not brief General McChristian on the 29th of May. I received the Legion of Merit pinned to my chest on the 28th of May and I was very proud of it at the time.

Q. Who pinned that on you, sir?

A. General McChristian, sir. . . . Counsel for the plaintiff found the letters and pointed out that—thank you, sir.

Q. Counsel for the who?

A. For the—what do you call it—General Westmoreland.

Q. For the plaintiff?

A. For the plaintiff, yes. Whatever.

At one point, Judge Leval had to interrupt:

A. I skimmed a few off the top . . . not a dramatic sudden increase. . . . what we called a book increase. . . . I skimmed some off the top, a few thousand, sir, in these categories, because I was not able to believe—

THE COURT: No, no.

THE WITNESS: Excuse me.

At another point, there was a small epiphany:

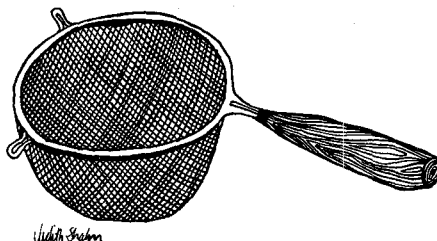
Q. Were the numbers that you briefed on the 14th of June lower than the numbers that you had briefed on the 28th of May?

A. They were somewhat lower, but they did not make a difference in the magnitude. When I'm talking about magni-

tude, I would like to explain, you take a hypothetical figure of 100,000, that figure, using the techniques and methodologies, could actually be 105,000 or it could be 95,000. It is an order of magnitude, nothing more, nothing less. You can skim 2,000 off of it, or you can add 2,000 to it. It does not disturb the order of magnitude. This is the nature of the skimming which I did when I returned with the briefing the second time.

Within moments, Judge Leval sustained an objection (which Dorsen had not yet made) and a motion to strike (which he had): "The jury will disregard the answer and the question." And a moment later, in a bench conference at the sidebar, Boies said the prior question and answer were "not of great concern" to him, "because that's already in the record earlier." Dorsen said, "I move to strike it, then." Boies, seeming to forget for a moment that he was not judge but counsel, said, "It's too late. It's in about two or three other times and—" Judge Leval interrupted, with evident dismay, "Does he not have *any* recollection to summarize *what was said*?" The judge went on to say that there was so far no basis at all for Hawkins' repeated testimony that there was a "command position" establishing a "ceiling of 300,000." "It's just floating there, unsupported." Dorsen argued that Boies was continually eliciting from the witness some totally baseless conclusion, obliging Dorsen to "get up time and time again" with an objection, and that though the objections were sustained, and Hawkins' answers were stricken, Boies simply elicited them again, the same baseless conclusions; that, though these questions and answers were again objected to, and stricken, "it makes it look like it's more and more powerfully persuasive, because I have objected, had something stricken, and he then continues." Judge Leval remarked that the day before was the last day of Hawkins' deposition: "Has he testified, on his deposition, to a basis for it, for his believing that there was a command position?" Dorsen pointed out that all Hawkins could remember from his second briefing of Westmoreland was "something not by General Westmoreland but by Robert Komer, who said 'This is Byzantine.'" Some more argument, and then:

THE COURT: I don't care if you laid even a minimal foundation for the proposition that he was under orders, a command position order, to stick to a 300,000 man ceiling. He hasn't said a word—he never mentioned 300,000 except in [one unresponsive] answer. There's absolutely nothing



ing in it, and I mean, you know, I thought at first that it wasn't a serious problem because I assumed that there must be a vast amount of basis for it. Maybe there isn't. I assumed that he must have had conversations with General Godding. . . .

MR. BOIES: I will now go directly to his conversations with those people, although I do say to you that this is the . . . Order of Battle chief.

THE COURT: I know. When he says command position—he's not the commander—that means a position that comes down from the commander. *What this case is about is the commander.* This case is not about whether the . . . Order of Battle chief acted dishonestly.

While it is true that all this took place at the sidebar, out of the hearing of the press as well as the jury, and that day-to-day coverage of trials simply does not include bench conferences, there was something in these remarks by the court that made almost farcical, quite apart from the farcical aspect of the witness himself in open court, the notion that this particular witness, Hawkins, was one of two so formidable as to make Westmoreland abandon his case. And the cross-examination of Gains Hawkins had not yet begun. As the increasingly appalling quality of what was called "intelligence" in the Vietnam years became apparent yet again, in the testimony of this nearly final witness; and as the implications, for those young men whose life and death depended on these bureaucrats, with their "techniques," and "methodologies," and "skim[ming] . . . a few thousand," "off the top," and "book increase," and "order of magnitude, nothing more, nothing less," dawned, in all their tragic, mindless clarity, this serene, complacent witness maundered on. Asked simply to state, for example, the substance of his conversations with General Davidson, he drifted through eight paragraphs, which included:

Body counts were coming in a lot of times without any identification. There was no way to tell whether these people were guerrillas, or self-defense, or just farmers out there with a buffalo, or the 256th Regiment, or whatever the hell they were, and so I made a note—you don't just tell a—a young colonel just doesn't tell a brigadier general, "Sir, you're full of stew;"

and

I couched it in very polite terms, the kind of terms to use with a superior officer, that "Sir, this study is not feasible;"

and

It was relating to what the press was going to make of these figures . . . and finally I told General Davidson and Colonel Morris that, "Look, this is the way we have been doing it all these months. This is our

methodology. This is our criteria. There is the best that I can do."

And, of course, the answer, such as it was, was couched again not in terms of what Hawkins had been told by any superior officers but what he had said to them. And, in spite of the fact that one's heart sank yet again, because, inadvertently embedded in these answers was the awful truth that this Order of Battle chief, defending his bureaucratic turf, simply (like all his subordinates and colleagues) did not know, in all good faith, dead or alive, who *were* the enemy, and who was the farmer with his buffalo; in spite of the fact that this witness was, in effect, making the perfect argument not just against the war but against the very thesis of the broadcast (what the program chose to call "conspiracy at the highest levels" revealed instead this rank and utter mindlessness at every echelon below), these were the men produced on the witness stand, as they had served in the military, for what Boies called their "expertise."

And suddenly Hawkins' worst moment, on direct examination by defense counsel—a moment that made no sense except on the basis of his deposition. All the witness seemed to be saying, in the second paragraph of what appeared to be just another of his usual answers, was "I tried my best to protect these main forces. It didn't really make any difference, because it distorted the intelligence anyway, because you had to have all of it to have a complete Order of Battle, but I felt sort of like the lady—" when Judge Leval, with evident horror, interrupted.

THE COURT: No, no.

MR. DORSEN: I move to strike the last part of the answer as not relating to a conversation with Colonel Morris or General Davidson.

THE COURT: You mean the last part, "I felt like—"?

MR. DORSEN: Yes.

THE COURT: "I felt like" is stricken.

This exchange, in open court, would be totally mystifying were it not for what Hawkins had said at his deposition, and what Hawkins and his counsel were under strict instructions not to say again, in court. Hawkins had said that the regular enemy soldiers, the "main-force units," were his favorites, that the irregulars meant much less to him; and that, "like the lady at Auschwitz," who had to choose which of her children would live and which would go to the gas chambers, he had kept his favorite, his

figures for main-force units, and let his estimates of irregulars die. It was to cut off the "lady at Auschwitz" metaphor that Judge Leval interjected his horrified "No, no," and ordered the "I felt like" stricken as well. Only two questions later, however, the witness was saying, "I don't recall figures too well," and one was reminded that, rather than some monster of coarseness, perhaps rather even than some utter fool, he was only the lawyers', and also the press's, pawn, trying to oblige, but failing again and again

even in that. Now Boies was trying to elicit from Hawkins the testimony that his immediate superior, General Godding, had given him some sort of order to keep a ceiling of three hundred thousand on estimates for the joint conference at Langley in August of 1967. The witness vaguely nattered on: "He [Godding] was my immediate boss, and I was chief of the Order of Battle;" "He was the man carrying the—really the command image, if you understand what I mean."

He had still said nothing that linked Godding to orders or a ceiling or a command position. He was just beginning to ruminate, on the basis of letters he wrote, in 1967, to his wife ("Yes. She saved faithfully every one of them"), whether he himself or Godding had left Langley first for Saigon when:

THE COURT: Insofar as you were testifying about the fact that General Godding was your chief at Langley—as to *that*, you're testifying from your recollection; is that right?

THE WITNESS: Not from my recollection, sir, but from what I read in one of the letters.

THE COURT: You don't—

THE WITNESS: Not my pure recollection.

THE COURT: You do not remember—

THE WITNESS: I do not remember precisely the event. I obtained it from reading through my letters.

So that Boies had to start all over:

Q. Do you remember, from your own recollection, attending the conference at Langley in August of 1967?

A. Oh, yes.

Q. Do you remember . . . whether General Godding was there or not?

A. Yes.

Q. And do you remember . . . that General Godding was your boss?

A. Yes.

But by this time it was clear that the witness remembered nothing; and that in spite of Adams' and Cravath's fifteen visits to him in Mississippi and in spite of the rehearsal in yesterday's



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deposition, in spite of Boies' coaching him, as it were, right there on the stand, the best Hawkins could do, no matter how many times and in how many ways he was asked about General Godding, was to say that he did "not remember the details of the conversation, but the substance was that that was a command position." And, finally:

The substance of the conversation was that the figures that we would agree with for the purpose of the estimate would not exceed 300,000.

But this was too little, and it came too late; it still gave no intimation of an order, and it could not pretend to establish a link to Westmoreland. Then, (in one of the few moments of the trial when Judge Leval was not entirely alert), Boies tried, and for the moment got away with, a tactic (against which, in the end, an objection was sustained, and for which, and for the whole conduct of his direct examination of Hawkins, he would incur, the next day, the court's relatively long and severe rebuke) aimed (as were Boies' last questions) purely and directly at the next day's press:

MR. BOIES: May I have just a moment, your Honor?

THE COURT: Yes.

Q. Colonel Hawkins, you have made some serious charges today, about yourself and about others?

A. Yes, sir.

Q. I want to ask you whether you are absolutely certain that those charges are true?

MR. DORSEN: Objection, your Honor.

THE COURT: Overruled.

A. Yes. I feel certain about the charges—

Q. Do you have any animus or ill will toward General Westmoreland?

A. No, sir, none whatsoever.

Q. Do you have any animus or ill will to the United States Army?

A. No, sir. *I carried out these orders as a loyal officer in the United States Army.*

This time, of course, Dorsen's objection was sustained. The whole point of this witness's testimony, and counsel's failure, lay precisely in the fact that there *were no orders*, as far as Hawkins knew. The judge, of course, understood this. Both lawyers understood it. In due course, as became clear in Dorsen's cross-examination and in the judge's remarks at a robing-room conference the next morning, the jury would have understood it. But there was no news value in a sustained objection. And Gains Hawkins' last line that day was perfectly crafted for, and duly featured in, the press.

—RENATA ADLER

(This is the first part of a two-part article.)

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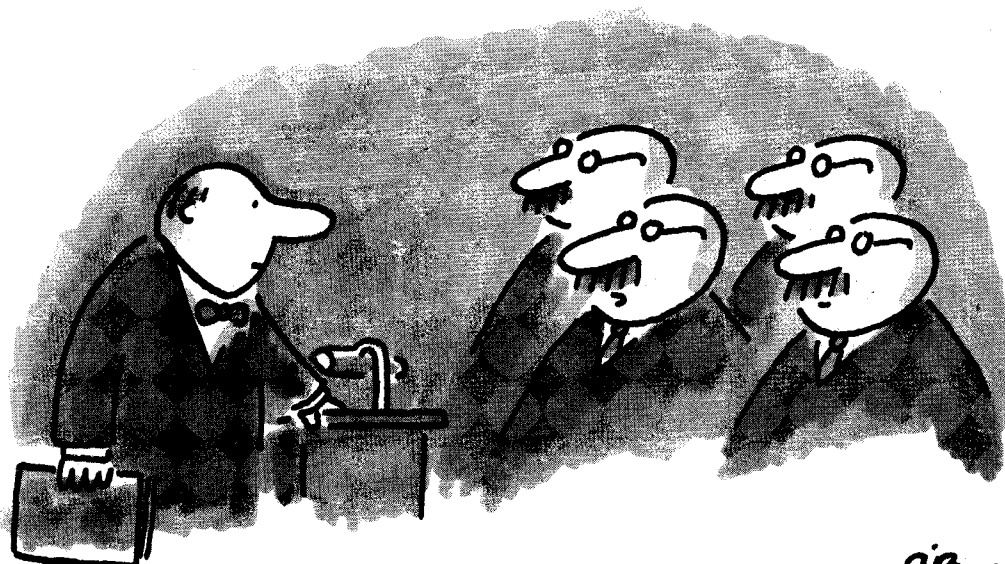
BIG things are afoot here. The noises emanating from the capital are not just the usual sounds of mock-battle—posturings and speeches signifying little real action. The Senate has taken up the tax-reform bill, which could lead to a complete replacement of the existing tax code and the most significant changes in the code since it was first written. Decisions are being made about the budget which could lead to a reduction of the still enormous deficit or, through a bit of legerdemain that a number of politicians and also Administration figures find tempting, could simply postpone the problem once again. And, after a lengthy bureaucratic battle, the President has taken the decision, which may well be considered of historic significance, to stop abiding by the unratified SALT II agreement. No one is sure what chain of events this decision will have set loose, but it was a departure from a policy that had been followed for more than twenty years.

THE current hope of the Senate leaders that they can get the tax bill through the Senate unscathed will be put to the test in the coming weeks. Their concern is that if the bill comes just a bit unravelled it might come completely unravelled. What has thus far held a large and unlikely coalition of interest groups behind it—representing everyone from poor people to corporate giants—is the low tax rates that are to result in exchange for substantial losses of deductions: a top rate of twenty-seven per cent for individuals and thirty-three per cent for corporations. The leading proponents of the bill on the Senate Finance Committee, which wrote it, have also used the divide-and-conquer stratagem on certain groups. For example, some big builders support the bill despite its deep inroads on tax advantages for real estate, because it would remove competition from those who go into real estate only for its tax advantages—or tax shelters. The bill's pro-

ponents got the banks to hold off opposing the committee's cutback on Individual Retirement Accounts by leaving in place a tax break (on reserves held by the banks for bad debts) that the House cut back substantially, and by threatening to be less kind to the banks if they cause trouble about I.R.A.s. Thus, they prevented the banking industry from joining in with the mutual-fund industry, which also profits from I.R.A.s, to oppose the cutbacks. There are some changes that both the bill's authors and the Administration feel should be made when members of the House Ways and Means Committee and the Senate Finance Committee meet to work out a compromise—but its backers would prefer that no fiddling be done on the Senate floor, so as not to tempt a large number of changes. Some groups are going along with the bill even though they are far from happy about it—for various reasons. Some figure that if they support it now they might have some standing to seek changes when the bill is taken up in the House-Senate conference. One lobbyist whose group has been zapped in the Senate bill said to me recently, "We're supporting the bill so that when it's time for the conference we'll be inside the tent." Possibly one of the most oft-heard sentences in Washington these days is "We'll fix it in conference." Some lobbyists don't want their clients to conclude that they haven't delivered for them, so they are declaring victory. Moreover, the Senate bill is more gen-

erous to business than the House bill is (whereas the House bill did not go as far as the one pending before the Senate in curbing individuals' tax breaks), and now that tax reform suddenly seems to have real steam behind it, and to be unstoppable, some of the lobbyists, still a bit stunned, are reluctantly settling for what they can get. And focussing on the conference does prolong the lobbyists' usefulness to their clients.

It is a bit unusual, and even questionable, to try to get the Senate to pass a mammoth tax-reform bill—or any bill—without allowing the senators to amend it; the last time this was tried (with incomplete success) was with the Gramm-Rudman budget-balancing law, and the result was a mess. And this tactic raises some question about the function of the Senate, but in the excitement over the possibility of a dramatic tax overhaul a number of key senators (including some who were outraged over the Gramm-Rudman procedure) don't want to think about that. Robert Dole, the Senate Majority Leader, concluded a while back that it would be impossible, and not necessarily good politics, to try to prevent senators from even offering amendments to the tax bill. He figured that, in particular, senators up for reelection this year should have an opportunity to say that they offered such-and-such an amendment, and that when they offer one Bob Packwood, Republican of Oregon and chairman of the Senate Finance Committee, could make reassuring noises about taking the distinguished senator's proposal into serious



"Yes, it was a table for eight, but at the last moment our wives refused to join us."

consideration in the conference, and that would be that. This is one of the more familiar rituals by which senators help each other out. At the time the bill was taken up, on Wednesday, Packwood had pledged from thirty-two senators to oppose all "significant" amendments, and from forty-eight senators that they won't offer any amendments but reserve the right to vote for one. Quite obviously, neither of these groups represents a majority of the hundred-member Senate, and as the debate neared a number of senators became restive about the no-amendment strategy. Some senators feel that the Finance Committee members had an opportunity to take care of their own, and that they should, too. It is always risky to step on a senator's prerogatives. Most important, the bill's backers at this point have an informal agreement among the senators that any amendment has to be revenue-neutral—that is, has to raise as much money as it costs. Such a requirement would be in effect if the pending budget resolution had already been finally adopted by Congress, and the senators' agreement to go along with it anyway is a moral and tactical victory for Packwood.

This will be the first time that Senate consideration of a tax bill has been subject to such discipline, and it should change the atmosphere dramatically. The fact that the tax bill will be the first major legislation debated under the live-television coverage of the Senate, which began last week, is also expected to work in favor of those trying to hold the bill together. Their theory is that few senators will want to be seen by so wide an audience offering amendments that others will characterize as helping the rich as against the poor and the middle class. As of now, the one amendment the bill's managers think they might not be able to defeat has to do with restoring I.R.A.s—and some think it might be politically wise to "lose" a vote on this. But the bill's managers know that each floor debate takes on its own chemistry, and has a certain unpredictability.

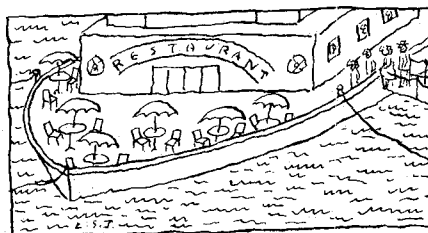
Bill Bradley, Democrat of New Jersey and an author of the original proposal for sweeping tax reform—he saw the potential of the idea some time ago, and first introduced his proposal in 1982—has been critical to the whole effort. It was Bradley's idea, among other things, that spooked the Reagan Administration into considering tax overhaul. The idea was that the entire tax system was so distorted,

and in such disrepute, that it must be overhauled, not just tinkered with, and that the only way to make that politically acceptable was to offer lower rates in exchange for a loss of deductions, credits, and so on. The Reagan people thought that the Democrats would seize on the idea in 1984, giving themselves a good campaign issue. But Walter Mondale and his top campaign aides didn't go along with Bradley, both because they considered the idea politically unfeasible and because they were loath to offend too many of their backers. According to David Stockman's book, "The Triumph of Politics," Reagan became interested in the idea of a "flat tax"—a single tax rate—in the course of a golf game with George Shultz over the Christmas holidays at the end of 1982. Reagan, who has had a thing about the tax code since his moviemaking days, when the top marginal rate was so high (ninety-one per cent) that he and his friends stopped making movies after a certain number each year, had already presided over a substantial lowering of individual rates in 1981, from a top marginal rate of seventy per cent to fifty per cent. A flat tax, with virtually no exemptions or deductions, Reagan became convinced, would unleash a flood of energy into the economy—just as he had been convinced that the 1981 tax cut would. Reagan also saw a flat-tax proposal as a way of preempting pestiferous suggestions that he raise taxes in order to reduce the now giant federal deficit. But a flat tax—having the richest and the poorest paying at the same rate and eliminating such sacred things as the mortgage-interest deduction—is extremely controversial, so the proposal was sent over to the Treasury Department for study. The following year, anticipating the Presidential campaign, the President announced that he had called for a study of a simplified tax code—the results to be announced after the election. There were snickers in the audience in the House chamber when the President announced this in his 1984 State of the Union Message—it was seen as a diversionary tactic of no real seriousness. But the Presi-

dent was more serious about the idea than people thought, and a process had been set in motion that led to where the Senate is now. And Reagan has also let on that he believes that the lower and more widely understood the rates are, the harder it will be to raise them.

The Senate bill is more radical than the one passed by the House last December, as well as the one eventually proposed by the Administration, in part because it never dawned on people that what the Senate Finance Committee did was possible until it did it. The House bill had personal-income tax brackets of fifteen per cent, twenty-five per cent, thirty-five per cent, and thirty-eight per cent. (House Democrats held to the idea that the tax code should remain somewhat progressive.) The Administration's proposal had three brackets, with the top one thirty-five per cent. Some Senate Democrats are planning to push to make the Senate bill more progressive. Before the House passed its version of a tax-reform bill last year, the proposal was several times pronounced politically dead, and one time the pronouncement was very nearly correct. There was a time when the White House wanted to give up on it. And there was a time, toward the very end, in December, when House Speaker Thomas P. O'Neill was ready to walk away from it, on the ground that House Republicans had voted it down on a preliminary procedural vote and the matter should be left at that. Packwood and the Administration have been very solicitous of the feelings of Dan Rostenkowski, Democrat of Illinois and chairman of the House Ways and Means Committee (with whom they will have to deal in conference), saying that if he had not led the way the tax bill would not be where it is now. Packwood has gone out of his way to praise Bradley for his role in tax reform, and, aside from the fact that Bradley may have started it all, this is good politics: forty-seven members of the Senate are Democrats, and Packwood figures that the more strongly Bradley's name is attached to the bill, the better it will do among Democrats. Packwood is also aware of the political axiom that you can accomplish a lot if you don't worry about your share of the credit. And those who follow the axiom usually end up with the lion's share of the credit anyway.

The House-passed bill was closely modelled on the Administration's pro-



posals (though it was less generous to business), and at that it came close to being defeated. House Republicans, in the guise of "populists," felt it didn't do enough for business. That it passed at all was due to the unlikely coalition of Reagan, on the one hand, for whom a defeat would have been a sharp blow to the strength of his Presidency, and, on the other, O'Neill and Rostenkowski—for whom a defeat would have left the Democrats vulnerable to attack by Reagan, and, in Rostenkowski's case, would have been a great, and weakening, embarrassment. Similarly, Packwood's reputation was on the line (he had just become Finance Committee chairman in 1985), and just a few weeks ago it was in serious jeopardy. Led on by Packwood himself, who took care of the timber interests in Oregon, as well as other interests, the Finance Committee behaved as it traditionally had—it loaded up the bill with amendments to take care of various interests. But then the bill was on its way to losing so much money (nearly a hundred billion dollars), and the exercise was drawing so much ridicule from the press, that Packwood withdrew the bill and decided to start over. In soundings taken earlier in the year, he had asked a variety of people in the business world what level of tax rates would make substantial elimination of deductions and exemptions acceptable. The number he got most often was about twenty-five per cent. Following his embarrassing retreat, just to see what might happen he put before the committee a proposal to tax individuals at the rates of fifteen per cent and twenty-seven per cent and to remove a great many tax breaks. Corporate tax rates would also be lower—thirty-three per cent. (The Administration had proposed thirty-three per cent and the House had approved thirty-six per cent.) When Packwood put the proposal forward, neither he nor his staff was at all sure that the committee would buy it, and they had in mind, as a fallback position, simply proposing some sort of minimum tax and then trying to write a tax-reform bill in conference. But, with the help of Bradley and a few other committee members, and after some compromising here and there, Packwood got the committee to approve his proposal. By this time, senators who had had no interest in tax reform began to see the potential political popularity of the low rates—and also didn't want to risk being accused of having killed tax reform. So, as a result of a mixture of

courage and fear—fear is much underestimated as a factor in politics—and of a variety of motives Congress might be on the verge of overhauling the tax code.

CONGRESS also may be on the verge of finessing the deficit question once again. A quirk in the way the tax bill is written is tempting some key senators and Administration officials to do precisely what the President had been saying he would never allow, and what a number of senators who are seriously concerned about the stubborn and still enormous deficit said should not be done: use revenues raised by the tax bill in the early stages to offset the deficit. The ground rule for the tax bill all along has been that it must be revenue-neutral over the years. In order to achieve this, all of the bills—the one proposed by the Administration, the one passed by the House, and the one approved by the Finance Committee—arrange for the elimination of tax credits and deductions, and so on, to begin six months before the rate cuts come into being. For this reason, the rate cuts don't yield the taxpayers the benefits in the first year that they do later on. In fact, many people will have a net tax increase at first. The insistence on revenue neutrality fit the President's insistent (if not consistent) position against anything that contributes to a "tax-and-spend" policy. Actually, taxes have been raised four times since the 1981 tax cut—each increase has been masked as something else—but not by nearly enough to pay for the budget increases that occurred on his watch, primarily in spending for defense but also for a number of other things. Hence the doubling of the national debt, from one trillion dollars when Reagan took office to slightly over two trillion dollars in 1985. The debt has continued to rise, and the legislated debt ceiling will have to be raised again in early August just to get through the remainder of fiscal 1986.

Political panic over having to raise the debt ceiling to slightly more than two trillion dollars last September was what led the White House to throw in with Republican senators—soon joined by a number of Democrats—and back what became the Gramm-Rudman law, mandating specific deficit levels for each fiscal year until fiscal 1991, when the budget was to be balanced. If the year's goal was not reached—a judgment that is to be made each August 15th—the budget

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would be subject to automatic, across-the-board cuts (or, heaven help us, "sequestration") in order to reach it. If, as many thought was possible, the Supreme Court held the sequestration process unconstitutional (a decision is due any time now), the bill's sponsors thoughtfully provided a "fallback" position whereby Congress would have to vote to approve the across-the-board cuts. (Of course, several politically popular programs, such as Social Security and veterans' benefits, were exempted from the across-the-board cuts. Also, the ever-growing interest on the debt would have to be paid.) The mindlessness of both the goal and the procedures for reaching it were of less importance to those who went along with the proposal than were their weariness of trying to reduce the deficit any other way, the temptation to seize the opportunity to use the new law to meet various agendas (cutting federal programs further, getting the President to agree to slowing the increase in defense expenditures, or even to another increase in revenues), and—once again—fear. Not many politicians wanted to chance being seen as opposed to balancing the budget. The bill originated in a panicked Senate, and when it reached the House the Democratic members were torn between simply letting a terrible bill pass, knowing they didn't have the votes to stop it, or trying to improve it. In an exercise that one House Democratic staff member described as displaying what he called "The Bridge on the River Kwai syndrome," the Democratic House members solemnly set forth to improve the bill—and to some degree they did.

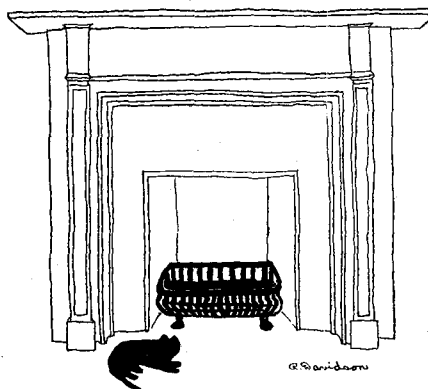
When Congress returned in January, and suddenly faced the reality of having to meet the Gramm-Rudman deficit levels, its reaction reminded one of nothing so much as the end of "The Bridge on the River Kwai": after some allied commandos manage, against, among other things, Alec Guinness's physical efforts, to blow up the bridge he has helped his Japanese captors build, Guinness, reality suddenly dawning on him, asks, "What have I done?" Now there was a new form of panic. Reaching the stipulated deficit level for the next fiscal year (fiscal 1987) seemed daunting and perhaps impossible, and the spectre of the across-the-board cuts was most unappealing. Moreover, a federal court here ruled, in February, that the automatic-cut provision was unconstitutional, and thus Congress was faced

with the horrible prospect of having to vote for those cuts if it didn't reach the Gramm-Rudman target. The White House believed that this strengthened the President's hand, and was all the less interested in working with Congress to write a budget. The problem was in the numbers: the Gramm-Rudman deficit target for fiscal year 1987 was \$144 billion—actually, \$154 billion, because a ten-billion-dollar leeway had been written into the law. Yet the projected deficit for the year was at that point about \$182 billion. Moreover, after five years of struggling to cut the budget, neither Congress nor the Administration was left with many politically acceptable cuts to make. The Administration sent Congress a budget that ostensibly met the Gramm-Rudman target by adopting highly optimistic economic forecasts (this is an old trick), proposing to end programs that it was clear Congress would not end, proposing to sell certain government assets (including Teapot Dome)—proposals that, even in the unlikely event that Congress adopted them, simply amounted to bookkeeping gimmicks—and by underestimating (deliberately) Pentagon spending by fifteen billion dollars. The Administration's budget document was dismissed out of hand by members of both parties as politically irrelevant.

Yet if the Gramm-Rudman across-the-board cuts occurred—one way or the other—some pretty grim things would happen. Since Gramm-Rudman is value-free, funds for biomedical research would be cut by the same percentage as those for Amtrak or farm subsidies or education, or cleaning up the environment. And the programs that would be hardest hit would be those that are "labor-intensive": among them the F.B.I., the Internal Revenue Service, the Federal Aviation Administration, the Drug Enforcement Administration, and the Veterans Administration (which runs many hospitals and other health-care orga-

nizations), and federal programs for inspecting such things as meat and poultry, and for the immigration service. This is because these agencies have no funds to dispense, so they have to take cuts in equipment, in operating expenses, or, more important, not replace people who leave—and lay people off. Early in the year, some congressional staff members who know what they are doing estimated that, with the way the deficit was going, the Gramm-Rudman automatic cuts in fiscal 1987 would cut some programs—the labor-intensive ones, and things like research on AIDS—by one-third to one-half. As it was, the Gramm-Rudman law had provided that small across-the-board cuts be made March 1st for the remainder of fiscal 1986. (House Democrats had demanded that the Republicans preside over some cuts before the November elections.) Under the law, the defense budget was to be cut by 4.9 per cent and the non-defense budget by 4.3 per cent. And, as should have been expected, even these seemingly small cuts damaged the law-enforcement and inspection activities of the government. The I.R.S. cut is one good example of the idiocy of the whole exercise: the Treasury Department estimates that for every dollar it spends in trying to collect revenue, it collects ten dollars. The Library of Congress was forced to substantially reduce the hours it was open.

After all last year's struggle to cut the deficit, and after the first Gramm-Rudman cuts, the deficit for the fiscal year 1986 (which ends September 30th) as of now is likely to be the highest in history. The goal in the budget resolution adopted by Congress last year was that the 1986 deficit would be \$171.9 billion; as things now stand, it will be somewhere around \$210 to \$220 billion (it keeps on growing)—or forty to fifty billion over the target. This rather impressive gap occurred for reasons that are now becoming familiar: revenues were lower than anticipated (the economy grew more slowly than the budget resolution assumed), and inflation was lower than expected (lower inflation has its good points, but it costs the government revenues); the actual money spent for defense was higher than anticipated; an agriculture bill passed in 1985 cost more than expected. But this presumably sobering outcome did not in the end change old habits when it came to writing the budget for fiscal 1987, the first full year of Gramm-Rudman. The Senate,



pushed mainly by Pete Domenici, Republican of New Mexico and chairman of the Senate Budget Committee (and a man who takes the deficit seriously) produced a budget that appeared to meet the Gramm-Rudman target, but did so by, as usual, making optimistic, and unrealistic, economic assumptions—and also by assuming that the existing deficit is lower than it is. The House saw no reason not to join the Senate in its comfortable fantasy, and so based its budget resolution on the same assumptions. By one reliable estimate, at this rate the deficit for fiscal 1987 will be more like \$190 billion than the \$144 billion to \$154 billion allowed under Gramm-Rudman. The trick lies in the fact that this can happen while everyone pretends that Gramm-Rudman is being met. The Office of Management and Budget, which does estimates for the Executive Branch, and the Congressional Budget Office, which does them for Congress, have both gone along with—even encouraged—the happy assumptions behind the budget resolutions. Therefore, on August 15th, when the “snapshot,” or estimate, of the deficit is taken, to see if the new budget resolution meets the Gramm-Rudman target—if it does not, the across-the-board cuts must take place—the O.M.B. and the C.B.O., which are to take the snapshot, can simply say that it does. (The possibility that these two agencies might collude in going with phony estimates was raised when Gramm-Rudman was being considered last year.)

Moreover, even to the extent that the Senate and the House appeared to meet the Gramm-Rudman target they did so in part by calling for unspecified increases of about eleven billion dollars in revenues—the word “taxes” is avoided whenever possible—and here is where the tax-reform bill comes in. Both chambers essentially froze funding for domestic programs (none were eliminated) and cut the President’s proposed increase in defense spending by substantial amounts. The House went further than the Senate in cutting defense, but they were not so far apart as the howls from the Administration would have had people believe. (House Democrats, taking revenge, refused to give the President any more for defense than he would get under the Gramm-Rudman automatic cuts.) The Administration’s problem is that it shovelled so much money toward defense (about a trillion dollars over five years), and Secretary of Defense

Caspar Weinberger insisted so often that not one dime could be cut from the Administration’s proposals—and then lived with the cuts Congress began to make in the President’s defense proposals after 1981—that the Administration is simply without credibility on Capitol Hill on the question of what it needs for defense. Still, even by squeezing domestic spending and the defense budget and by fudging the numbers, Congress could not come up with something that even appeared to meet Gramm-Rudman without calling for an increase in revenues. The Senate budget was agreed to while the President was en route to the recent economic summit meeting, in Tokyo, and, between this and the Finance Committee’s agreeing on the tax bill around the same time, word began to get about that Congress is better able to get things done when the President is out of the country. Democratic House leaders were more chary about calling for an increase in revenues, and though the House budget does call for an increase of the same amount as the Senate’s (but not with the same legislative force), O’Neill, seeking to protect his troops in November, said that the House would not finally approve such an increase unless the President “embraced” it. Similarly, Rostenkowski is decidedly opposed to writing legislation to increase taxes to meet the budget goal unless the President requests it. But no one expects the President to do so. And the House won’t agree to raise the defense figure in the budget unless there are new taxes to pay for it. As a result, some think it is possible there won’t be a budget resolution at all this year. (Congress can’t be sent to jail in this event.) On Friday, Domenici met with Donald Regan, the White House Chief of Staff, and told him that he could not get the President more defense funds without new taxes. Regan said that the President was not likely to go for new taxes and that, anyway, the President might prefer to have the opportunity to beat up on Congress for not voting more funds for defense.

And, similarly, for reasons of his own, Dole would be pleased if the whole subject of tax increases went away. Dole not only wants to protect his own troops in November but is also looking to his own future as a contender for the Republican nomination in 1988. One of the raps on Dole within the Republican Party is that he got himself absorbed in reducing the

deficit through tax increases after 1981; by contrast, one of his rivals, Jack Kemp, a congressman from New York, has resisted all tax increases as unnecessary. Similarly, the top men at the Treasury Department—Secretary James Baker and Deputy Secretary Richard Darman, who when they were in the White House during Reagan’s first term broke their picks trying to get the President to agree to tax increases—would be delighted to get past the question of tax increases this year. And some White House aides—looking toward November—wouldn’t mind, either. So, through a coincidence of various people’s motives and political exigencies, there is a strong predilection now to pick up some of the revenues that will be raised by the tax bill in the beginning, let them be applied to the budget deficit, and call it a day. Domenici, whose job it will be to clean up the mess in future years, is fit to be tied about this strategy. Even if the Senate adopts a resolution—which it might—saying that the tax-reform bill should not be used to reduce the deficit, that’s not the end of the story. The fact that the tax-reform bill loses money beginning in fiscal 1988, and therefore the budget problem will be all the more severe then, is something that these people would prefer to think about later. A new President would be left with the debris. Whether the current President is aware of what is going on, and the extent to which it goes against his fundamental beliefs, is unclear; this would not be the first time the President was sold on something he doesn’t understand. The whole exercise brings to mind another movie, and suggests that we are being governed by what might be called the Scarlett O’Hara school of governance: “After all, tomorrow is another day.”

THE uproar over David Stockman’s book pretty nearly obliterated much attention to what the book said. There are valid objections to the book. Stockman betrayed confidences to an unusual degree; it is not unprecedented for someone to write about his government experience, or even to write about his colleagues, and a President—and settle some scores—while those people are still in office, but the magnitude of Stockman’s betrayal seemed to be something new. Among other things, one has to be able to function in the government without worrying about who is taking notes—



but it is increasingly prudent to assume that someone is. Stockman's portrayal of many of the people he worked with in the government or dealt with on Capitol Hill range from wicked to mean—though people he admired (Baker and Darman, among others) were exempted. His tone is hyperbolic, and his style is somewhat brattish. Stockman is not one for understatement, in either his political behavior or how he talks; by his own account, he went from being a campus Marxist to a governmental nihilist. Another line of objection, also valid, is that Stockman, as he himself says, misled the American people during the four and a half years he presided over the Office of Management and Budget.

But in telling his story Stockman does not exempt himself from the blame for the debacle that was made of the budget; on the contrary, he makes plain the degree of his own misjudgments about what was possible and his misleading of the public. Therefore, his is not the standard apologia. And he is telling a most important story: the story of the worst fiscal mismanagement in the history of the country, a story that only he is in a position to fully tell, and a story that will command the attention of historians. His book is intemperate, but basically true. Some of his anecdotes aren't nice, but they ring true (and are also very funny), and give a deadly picture of many of the people who are still trying to run the country. The real questions about Stockman's character raised by the book, plus the objections on the part of those who will not brook any criticism of the President, combined to get in the way of what Stockman was saying. He paints a picture of a befuddled President surrounded by cynical and sycophantic aides (some of them not too bright)—and by few aides who wanted to grapple with the disaster that was in the making. He demonstrates quite clearly how a budget that the Reagan Administration had pledged to balance by fiscal 1984 came to be \$183 billion in the red by then, and more than \$200 billion in the red in the next two fiscal years—leading to a doubling of the national debt, from one trillion dollars to two trillion dollars, in five years.

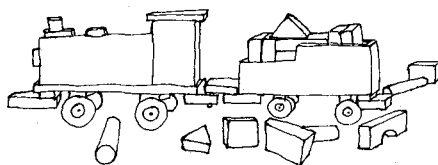
One of the bases for objections to Stockman's book is that Stockman's warnings that the fiscal havoc he describes would cause the sky to fall haven't been borne out. The answer to that may be, some here suggest, that they haven't been borne out yet. Stock-

man shows that former Senate Majority Leader Howard Baker was right when he said in 1981 that Reagan's economic program was "a riverboat gamble." His book also shows the validity of the principle that, as someone I know who was very close to the unfolding budget disaster puts it, "you don't bet the country." A dispassionate view of reality informs us that the country will be paying for the result of the bet, or gamble, for many years: in higher taxes, higher inflation, higher interest rates—or a combination of all three. And one of the results is less visible but no less troubling. Through an erosion of the tax base and a piling up of debt, the country has been set on a course of a lower quality of our national life than need exist. The debt-service account—the amount of money that must be spent just to pay off the interest on the debt—is the fastest-growing account in the budget. At the moment, the country is spending a net of \$145 billion, in this fiscal year, just to pay the interest on the debt. It doesn't buy a thing. Even if the Gramm-Rudman targets are met in their entirety between now and fiscal 1991 (which is unlikely), almost \$400 billion will be added to the national debt. With the debt now approaching \$2.1 trillion, a little miscalculation will give us a debt of three trillion by fiscal 1991. What is already happening is that an increasing proportion of the budget is being spent on present consumption: on paying the interest on the debt; on paying pensions, such as Social Security; on other income-security programs, such as welfare and Medicare; on agriculture price supports; and on defense. And a decreasing proportion is being spent on investment in the nation's future: on education, on roads and bridges, on pollution control, on biomedical and other scientific (nonmilitary) research. It will take a very long time, or a dramatic change in policy, to turn this around.

THE President's decision, announced May 27th, that he planned to stop observing the limits of the SALT II arms-control agreement set off a mighty roar not only here but in the capitals of our allies—but it

should not have come as a surprise. The President had been heading in that direction for some time, and the people within the Administration who wanted him to stay within the SALT II limits were outmanned and outgunned—by people within the Administration and on Capitol Hill. The most important stage in the development of the President's position occurred between around mid-April, when a tentative decision about what to do about SALT II was made, and the final decision, in which the President took a firmer position. The immediate question the President was facing was what to do about the fact that the launching of a new Trident submarine would put the United States over the SALT II limits unless two older, Poseidon submarines were dismantled. When he was faced with a similar question last year, the President, in June, ordered that a Poseidon be dismantled, and said that he was going "the extra mile" to stay within the limits of SALT II—even though it had never been approved by the Senate. But he added that if the Soviets were violating the agreement he would in the future make a proportionate response. In April, he took a tentative decision to dismantle two more Poseidons but to say that the decision was based on the fact that they were no longer of military value (not that he was doing it in order to stay within the SALT II limits), and that if the Soviets continued to violate the agreement he would himself breach it later in the year when the time came to outfit more bombers with air-launched cruise missiles. (The Navy was not particularly interested in spending money to keep the Poseidons in drydock.) This "tentative" decision was to be taken to the allies, who were expected to be pleased with the first part of it but unhappy with the second part. It represented a victory of Pentagon civilians who have never liked SALT II—or any other arms-control agreement, for that matter—and Kenneth Adelman, the director of the Arms Control and Disarmament Agency, over Secretary of State Shultz and other State Department officials. The people who had won knew that the decision could be reconsidered, but they also knew that the President was convinced that the Soviets were violating the agreement. The President's decision was described as "tentative" in order to allow time to test the reaction of the allies and also key figures on Capitol Hill.

As it happened, the reaction of the



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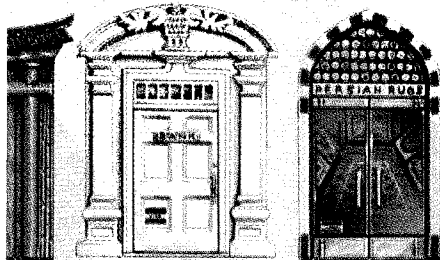
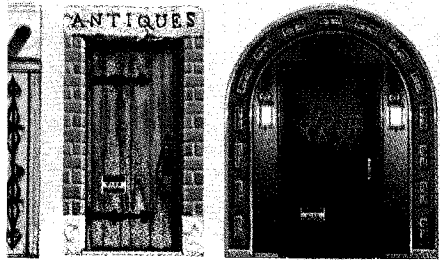
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allies to the tentative decision was not as strenuous as had been anticipated, perhaps because they didn't understand it—and weren't meant to. The allies were told that the Poseidons would be dismantled but were given no reason; therefore, they were free to conclude that action would be taken in order to stay within SALT II. And they were told that a decision on air-launched cruise missiles would be made later, and would depend on Soviet behavior. There was no reason for the allies to conclude that the President was changing his policy of the year before that Soviet violations would be met with proportionate responses—that is, actions short of junking the agreement. To the State Department and a number of people who wanted the President to stay within SALT II, his "tentative" decision was interpreted to mean that he would stay with the old policy—and that with a summit meeting probably coming up in the fall, and with the allies undoubtedly making a fuss about the possible breaking out of the treaty with the air-launched cruise missiles, the President might stay within the treaty. But the allies didn't make much of a fuss. (It is said that only Britain's Prime Minister, Margaret Thatcher, caught on and did object in strong terms.) One theory is that the allies' arms-control advisers stressed to them the first part of the President's decision—that he would dismantle the Poseidons. Another is that around the time of the Tokyo summit, when all this was taking place, the allies were preoccupied with other things—with terrorism, with trade. On the other hand, the reaction against the decision—interpreted to mean that the President was not ready to break with the SALT II treaty—met with more intense opposition from certain quarters on Capitol Hill than had been expected.

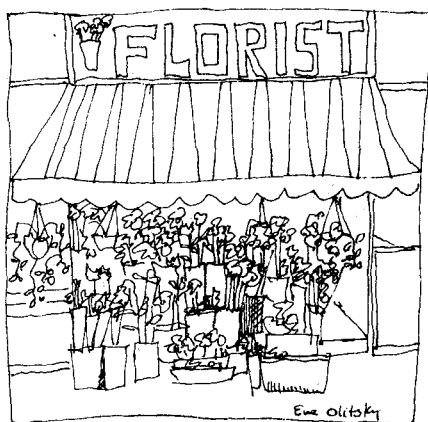
Opponents of SALT II, within the government and on Capitol Hill, saw their opening and took it. Among other things, a group of thirty-five conservative senators wrote letters to Reagan urging him to break with SALT II right away. They, along with many others, threw back at Reagan that he himself had described the agreement as "fatally flawed," and argued that while he had gone the "extra mile" the Soviets had continued to violate the treaty. In the letters and in meetings with Reagan, the senators warned that Reagan would be setting a precedent by observing a treaty that

the Senate had refused to approve and, by observing the treaty, was flouting the constitutional system. Reagan was urged to break with the treaty now, because once another summit meeting was on the horizon it would be far more difficult for him to do so. (This is what the treaty's supporters were hoping.) Pentagon civilians continued to argue that the President should not dismantle the Poseidons, and they, like the senators and some others within the Administration, told the President that if he continued to stay within SALT II while the Soviets were violating it his credibility with the Russians was at risk—and that this would be a most dangerous situation. They and others argued that the allies are always complaining, and should not be paid undue deference. Moreover, defense officials believe, the allies lost some standing with the President after they—with the exception of Thatcher—refused to help us out in the raid against Libya. Says one Pentagon official, "You had to be careful talking about the allies to a President who is furious with the allies." Those within the government who hold that the allies are unreliable push policies that make it more likely that that will be the case. William Casey, the director of the C.I.A., wanted the President to break with SALT II, as did Weinberger and Adelman. The Joint Chiefs of Staff, who used to argue in favor of staying within SALT II, remained on the sidelines this time, saying that this was a "political" argument. (After all, they work for Weinberger.) This left Shultz isolated. His chief arms-control adviser, Paul Nitze, had lost influence, because, whereas before the Reagan Administration came to office he had been a leading critic of SALT II, he was seen as having thrown in with the State Department after he joined the Administration. Moreover, Shultz is

not as well versed in the treaty as its opponents are.

Adelman had been arguing for some time that the issue was not what to do about the submarines but what to do about the policy. He believed that the Soviets' handling of the Chernobyl incident created increased doubts about the Soviets' willingness to cooperate in the verification of compliance with arms agreements. He argued to the President that if he didn't respond more forcefully to Soviet violations arms control had no future. And, aware that the President had grown weary of these periodic debates over whether to stay within SALT II, Adelman said that if he didn't want to go through it twice a year this was the time to make a final decision. And he proposed a new framework: that instead of abiding by the terms of SALT II the President should say that he would build whatever forces were needed to meet the Soviet threat—however defined. John Poindexter, the President's national-security adviser, is said to have been impressed by the argument that there was no point in staying within a treaty that the Senate had not approved, that was fatally flawed, and that the Soviets were violating. Poindexter's predecessor, Robert McFarlane, was more aggressively committed to maintaining an arms-control structure. The argument over this potentially fateful decision was carried on largely through memos: no formal meeting of the principals was held on it.

The question of violations is a murky one, because it is subjective. The two violations of SALT II that the President charged the Soviets with in his statement were that they had built two new types of missiles, whereas the treaty had permitted only one, and that they had hidden data (or "encrypted telemetry") on their weapons testing—thus making it more difficult for us to determine whether they were complying with the agreement. Paul Warnke, the Washington attorney who negotiated the SALT II agreement for the Carter Administration, says that the two provisions the Soviets are accused of violating are ambiguous—and he says that some of the ambiguities were pushed by the Pentagon—but that neither issue goes to the heart of the treaty, which is numerical limits. And not everyone agrees that the Soviet "extra" missile is one, and some argue that if it is, the U.S. response should be to carry out plans to de-



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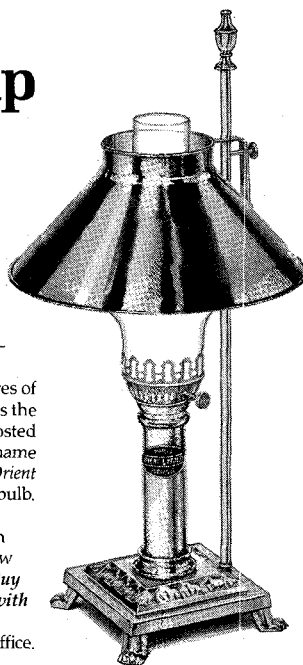
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ploy a single-warhead mobile missile (Midgetman), rather than scrap the treaty. Dispassionate observers—who, admittedly, are hard to find—say that the Soviet record on SALT II shows that it will push at the edges of what is possible but that the over-all record of compliance (including Soviet dismantling of many weapons in order to meet the SALT II ceilings) is pretty good. (The Soviets have dismantled more than twelve hundred ballistic-missile launchers to stay within the limits of SALT II—far more than the United States had had to dismantle.) In the past, complaints over violations have been negotiated out.

To the argument of the Administration's critics that the Soviet Union is readier to break out of the SALT II agreement than we are—that it has more new missiles on line—Administration opponents of arms control argue that the Soviets have already gone all out in building up their strategic forces, and will be subject to budgetary constraints. So, of course, will we. The real problem with the decision, according to dispassionate observers, is that it removes any atmosphere of constraint. The next few months will tell whether the President finds that the political opposition to his move is more than he bargained for, or whether he finds that it is not all that formidable. The two big questions are whether the fight within our government over SALT II is really over and what will happen next between the United States and the Soviet Union. The President left himself some leeway to rejoin SALT II if Soviet behavior improved, but opponents of the agreement are confident that this will not happen. Some see the President's move as another of his foxy-grandpa gambits: that the Soviets will respond with moves that he can say brought them into compliance, or that they will come in with some important positive proposals in the arms-control negotiations taking place in Geneva—proposals that could make it appear that Reagan might do better than SALT II. Reagan is an accomplished redefiner. The Soviets have recently made some new proposals, but the extent to which government officials see them as positive has a close correlation with whether they want to see them as positive. The arguments within the Administration will go on, but the arms-control opponents within the Administration believe that—at last, and for good—they have prevailed.

—ELIZABETH DREW

THE THEATRE

Off Broadway

DAVID POWNALL'S "Master Class," at the Roundabout, may not make much of a play, but it is not a bore, and it does give the four good actors of the company roles that they certainly appear to relish. The actors are Austin Pendleton, Werner Klemperer, Len Cariou, and Philip Bosco. The place is a room in the Kremlin; the time is 1948, during a conference of the musicians' union at which Stalin accuses some of the most prominent living composers of "formalist and anti-Soviet practices in their music, which is marked by formalist perversions and many undemocratic tendencies." The four characters are Shostakovich (Mr. Pendleton) and Prokofiev (Mr. Klemperer), who confront Stalin (Mr. Cariou) and Andrei Zhdanov (Mr. Bosco), his close friend and the Secretary of the Communist Party Central Committee. The first act is mostly a matter of bullying and taunting the composers in a brutal cat-and-mouse way; it ends with Prokofiev crouched miserably on the floor as the two politicians smash phonograph records of his compositions one by one. In the second act, the mood shifts from the glum to the comical when Stalin, much the worse for vodka, insists that the composers collaborate on a fake folk cantata—first to a terrible Georgian poem he has brought with him and then to Jack London's "The Call of the Wild." Prokofiev and Shostakovich, sensing that Stalin and Zhdanov are too drunk to present much danger, decide to forgo their hurt feelings, and compose an extemporaneous parody of folk music and Jack London, which is entertaining. (Mr. Klemperer, at the piano, is especially funny here.)

The actors, throughout, are much better than the play, Mr. Cariou being so strong and fascinating that I found myself turning pro-Stalin. Nevertheless, I

didn't believe for a moment that any of them were whom they were supposed to be impersonating, and I felt, not for the first time, that plays about actual people—unless they happen to be Henry IV, Part Two—simply will not do. Frank Corsaro directed; scenery and costumes by Franco Colavecchia.

"STORIES ABOUT THE OLD DAYS," by Bill Harris, at the Henry Street Settlement, is composed of four brief encounters of a man and a woman, probably in their sixties, and strangers at first, who manage to rescue each other from emotional numbness and terminal loneliness. The setting is a church in a black neighborhood in Detroit. She, a former factory worker, lives in a retirement home; he, a former blues singer in the South, has

been given permission by the minister to live in the basement of the church and act as custodian. They start off very edgy, but soon there is ease, and with it baiting and humor, the humor reaching a high point in three checker games. (She has provided both the checkerboard and her own fierce, competitive, unscrupulous spirit.) By the final curtain, we have learned a great many things about both of them—that she, too, for example, was once a singer; the scene in which she sings "A Mighty Fortress Is Our God" in counterpoint to his blues is extremely affecting. The play, written with a sympathy that never becomes sentimental, and without a trace of condescension, about characters of a kind who rarely appear on a stage, is totally convincing. That this is so is due in large part to the performances of Abbey Lincoln and Clebert Ford, who couldn't be better, and to the direction of LaTanya Richardson. Ina Mayhew



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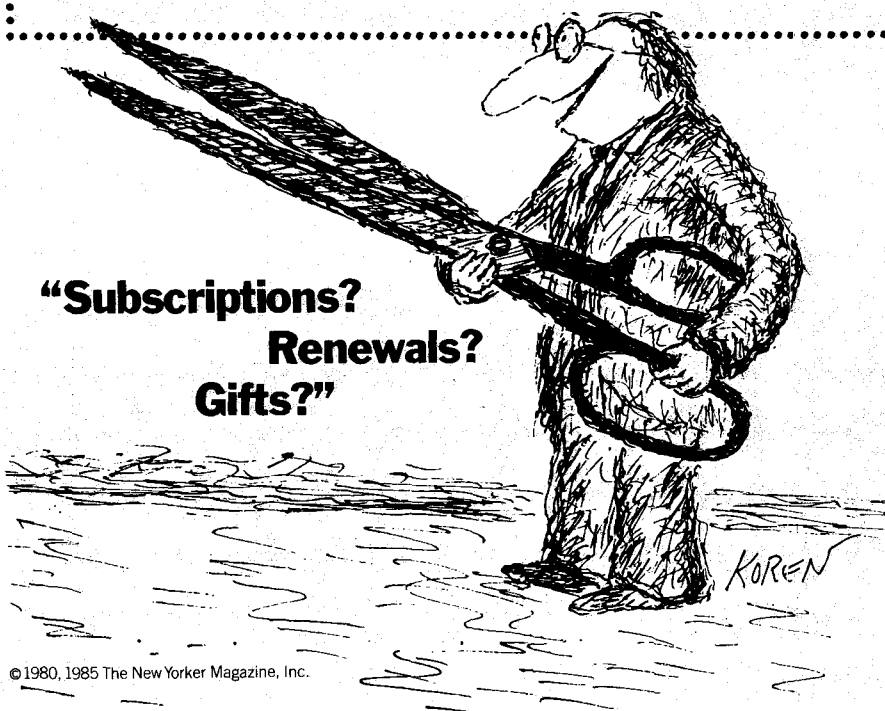
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designed the appropriate setting, and Judy Dearing is responsible for Miss Lincoln's attractive (and extensive) wardrobe.

"THE NICE AND THE NASTY," an exercise in facetiousness—relentless facetiousness—at Playwrights Horizons, is presumably aimed at the television faithful, and seems to take off from "Dynasty" and "Dallas" and any number of science-fiction programs. I sound so tentative because I am barely qualified to watch the show, much less appraise it. It is saved from absolute hopelessness (for me, that is) by a scattering of amusing lines, and by the always welcome presence of W. H. Macy, this time as a romantic lead in a "photosynthesizer" cap. Mark O'Donnell is the author, Douglas Hughes the director, and Loren Sherman the clever scenic designer.

ROY BLOUNT, JR.'s monologues, under the title "Laugh at Lunch," at American Place through June 12th, make the most humorous and engaging fifty minutes in town and, incidentally, take the blight off the one-man show. There's nothing wrong with the one-man show if the man is Blount. His anecdotes, set in his native Georgia or in Massachusetts, are always pointed and funny, and his delivery is dead on target. The program, one of the American Humorists series, goes on in the little Sub-Plot Theatre, on weekdays alternately at noon or 1 P.M. Bring your own sandwiches; soft drinks are available.

—EDITH OLIVER

As Robert Burns, the great Scottish poet, wrote "the best laid plans of mice and men go oft astray." Computer and communications systems plans are no exception. To my knowledge, few, if any, mice have attempted installation of a turnkey lab system—but many laboratorians, both men and women have.

The purpose of this article is to provide some guidelines to prevent a "turnkey" Lab system from becoming a "turnkey" system instead.—Dennis Winsten in *Healthcare Computing & Communications*.

Something's already a-gley, Winsten.

RAISED EYEBROWS DEPARTMENT

[Adv. for the Katharine Gibbs School in the Washington Post]

SPENDING THE NIGHT

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MUSICAL EVENTS

Child Mabel

DURING the last eighteen years, David Del Tredici has composed nearly six hours of music inspired by "Alice's Adventures in Wonderland" and "Through the Looking-Glass": from "Pop-Pourri," of 1968, to "Haddocks' Eyes," which had its première in Purchase last month and then came to New York. A listing of the "Alice" works (with place and date of first performance, and approximate duration) may be helpful, since people find it hard to remember which of them they have heard and which not:

1. "Pop-Pourri" (La Jolla, 1968; 28').
2. "Lobster Quadrille" (London, 1969; 13').
3. "Adventures Underground" (Buffalo, 1975; 23').
4. "Vintage Alice" (Saratoga, California, 1972; 28').
5. "An Alice Symphony," so far unperformed as an entity, comprising:
 - 5a. "In Wonderland," incorporating No. 2 (Aspen, 1975; 24'), and
 - 5b. "Illustrated Alice" (San Francisco, 1976; 17').
6. "Final Alice" (Chicago, 1976; 64').
7. "Child Alice" (New York, 1986; 137'), comprising:
 - 7a. "In Memory of a Summer Day" (St. Louis, 1980; 63'),
 - 7b. "Quaint Events" (Buffalo, 1981; 25'),
 - 7c. "Happy Voices" (San Francisco, 1980; 17'), and
 - 7d. "All in the Golden Afternoon" (Philadelphia, 1981; 32').
8. "Haddocks' Eyes" (Purchase, 1986; 15').

The earlier fits of this "Alicead" were performed widely, but not in New York until in 1977 the Philharmonic played No. 6, "Final Alice"—a work that proved to be as little final as Ned Rorem's "Final Diary." Nos. 1 to 6 had been a series of pieces for amplified soprano, "folk group" (saxophones, mandolin, banjo, and accordion) or (in No. 1, which also uses a chorus) rock group, and orchestra. Del Tredici then turned to the group of pieces making up the evening-filling No. 7, in which an amplified soprano is pitted against a more-than-Mahlerian orchestra. No. 8, which is for amplified soprano and ten players, could well be the start of a new chamber cycle, for there is plenty of "Alice" and "Alice"-related material still unset by Del Tredici, including the earlier version of the Mouse's Tale; "You are old, Father William" (and the Southey poem it parodies); the Humpty-Dumpty and the Lion-and-the-Uni-

corn scenes; and the Wasp episode from "Through the Looking-Glass," which Carroll deleted in proof and which has been newly recovered. "Haddocks' Eyes"—its text the White Knight's song and Tom Moore's "My Heart and Lute"—could easily be made five times as long by settings of Carroll's first version of the song, "Upon the Lonely Moor," and of "Resolution and Independence," Wordsworth's poem about the leech gatherer, which it parodies.

The earlier works in the series were concerned, for the most part, with Alice's adventures. Then, in "Final Alice," Del Tredici turned to speculation about real-life feelings that Charles Dodgson (alias Lewis Carroll) might have had for the ten-year-old Alice Liddell, to whom the tales were first told. As if peeling through layers of reticence to a love that the author hardly dared avow, Del Tredici set, in turn, the White Rabbit's "They told me you had been to her," Carroll's earlier version thereof, which begins "She's all my fancy

painted him," and William Mee's sentimental ballad "Alice Gray," which underlies it:

She's all my fancy painted her,
She's lovely, she's divine. . . .
O, my heart, my heart is breaking
For the love of Alice Gray.

In "Child Alice," Alice's adventures are also left behind, and Dodgson, contemplating Alice, is the protagonist. Part I is a double setting of the prefatory poem to "Through the Looking-Glass," and Part II a double setting of the prefatory poem to "Alice in Wonderland." The first setting of each poem, the composer says in a program note, is "pure, innocent," and the second is "rapturous, impassioned, even tortured": charged with "the passion Carroll dared not express (or perhaps even feel) waking . . . here given full, romantic rein, as might happen in a dream—Carroll's dream of love of Alice." The songs are framed by lush orchestral movements, two of them intended to suggest tales that didn't get written down—"as it were, chapters from 'Alice's Adventures in Wonderland' that got away." "Child Alice" was brought out—as the table above shows—in four separate installments but was planned as a



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single piece. The chance to assess it as such came at an American Symphony Orchestra concert in Carnegie Hall in April, when John Mauceri conducted the world première of the whole thing.

A creative artist is not called upon to be a scrupulous biographer. Handel's "Giulio Cesare," Spontini's "Milton," and Verdi's "Don Carlos" are not damned for a want of historical accuracy; Del Tredici could be forgiven his heated fantasies about the gentle Oxford mathematician and the Dean of Christ Church's well-mannered little daughter had an enthralling work of art resulted. Yet it does seem to matter that his "Alice" pieces sail under false colors; that Alice's tones are not heard in them, and those of Lewis Carroll are heard but seldom; that he has laid an insensitive hand on and grossly glossed a text whose influence on the thought and conduct of English-speaking peoples can hardly be overrated. Alice has been likened to Beatrice and to Laura. "The question for an adult reader of Lewis Carroll," W. H. Auden wrote in a 1962 essay, "is not the author's psychological peculiarities, but the validity of his heroine. Is Alice, that is to say, an adequate symbol for what every human being should try to be like. I am inclined to answer yes." In a world of ill-mannered, bossy, bewildering people, Alice remains courteous, curious, truthful, sweetly reasonable, and tidy-minded. But Del Tredici has given to her and to her creator rackety, repetitious music—more bombastic and noisier than the finales of Mahler's Second and Seventh Symphonies or Strauss's "Thus Spoke Zarathustra." To make themselves heard above the orchestral din, they must bawl at the top of their voices. The program note to "Child Alice" contains these sentences: "With the clanging of an anvil, the listener may think he is at the sonic peak, but a succession of climaxes leading at length to a screaming siren (marked *Glimax of Climaxes* in the score) will prove otherwise;" "As Carroll warms to his task of story telling, the music picks up speed, becoming increasingly grandiose—trumpets blaze, a siren wails" (this in the "pure, innocent" setting of "All in the golden afternoon"); "Forces again quickly gather, and, borne by the largest crescendo of the piece thus far, we arrive at the *Quodlibet*, presented thunderously by the whole orchestra." A listener is tempted to imitate Alice when, as the Lion and the Unicorn were drummed

out of town, she "put her hands over her ears, vainly trying to shut out the dreadful uproar." In another essay, Auden divided writers ("except the supreme masters who transcend all systems of classification") into Alices and Mabels. (Mabel is the girl living in a poky little house and knowing such a very little who Alice, during her identity crisis in Chapter II of "Wonderland," hopes she isn't.) Among Auden's paired examples are:

Alice	Mabel
Montaigne	Pascal
Jane Austen	Dickens
Turgenev	Dostoyevski
Virginia Woolf	Joyce
E. M. Forster	Lawrence

By those fastidious lights, Del Tredici is among composers clearly a Mabel, not an Alice; and he is becoming ever more Mabeline. The earlier "Alice" pieces contained ingenious juxtapositions of music in various manners, reflecting disarray and order, originals and parodies, different views of the same event, and contrasts of character. But with "Child Alice" Del Tredici collapsed into simpleminded Victorian diatonicism, melodic banality, and excess. The first part of his piece is based on a quite pretty flute tune. When it is sung as "Child of the pure unclouded brow," the words fit awkwardly and prove unintelligible. When it is blared out by the full orchestra, the result is horrid. The second part is based on a jerky, jaunty tune unsuited to the lines "All in the golden afternoon Full leisurely we glide." No golden afternoon here, no gliding, no easy pull from Oxford to Godstow while tales are told, but a trip that starts choppily and runs into tempests that would wreck a liner. Even the gentle close is accompanied by the wailing of a wind machine. The piece is self-indulgent, uncontrolled, orgiastic.

In the Carnegie Hall performance, the soprano role, which spans an extravagantly wide range and, much of the time, lies uncomfortably high, was shared by three singers: Tracy Dahl, high soprano; Dawn Upshaw, lyric soprano; and Victoria Livengood, mezzo-soprano. (Although Alice Liddell's sisters, Lorina Charlotte and Edith, did accompany her on that 1862 excursion when "Alice in Wonderland" was first improvised, these three singers, lined up before their microphones, suggested, rather, the Andrews Sisters.) The electronic amplification of the soprano voice into a super-Brünnhilde power instrument, screaming out above a huge orchestra

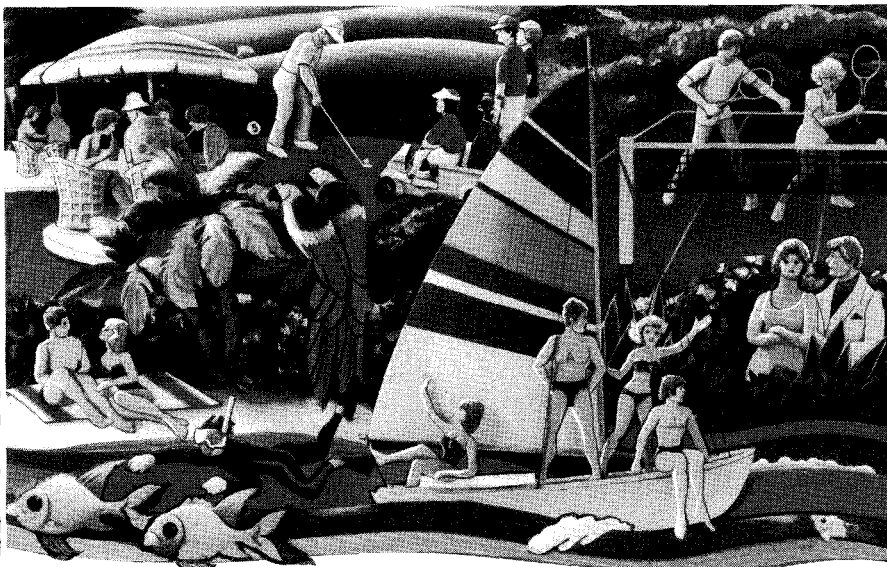
in full cry, is an unattractive feature of the "Alice" works, and the combination of loudspeaker blast, crude word setting, and high tessitura insures that very little of the text can be understood. Mr. Mauceri conducted an enthusiastic and full-blooded performance, often jumping into the air in his endeavor to obtain ever louder sounds from his players.

THE White Knight scene is one of the most memorable in "Alice":

Of all the strange things that Alice saw in her journey Through the Looking-Glass, this was the one that she always remembered most clearly. Years afterwards she could bring the whole scene back again, as if it had been only yesterday—the mild blue eyes and kindly smile of the Knight—the setting sun gleaming through his hair, and shining on his armour in a blaze of light that quite dazzled her—the horse quietly moving about, with the reins hanging loose on his neck, cropping the grass at her feet—and the black shadows of the forest behind—all this she took in like a picture, as, with one hand shading her eyes, she leant against a tree, watching the strange pair, and listening, in a half-dream, to the melancholy music of the song.

The Knight has often been considered a gentle self-portrait of Carroll himself—mild, affectionate, dreamy, inventive, and concerned with metalinguistic niceties. The tune of the song, the Knight claims, is his own invention, but Alice recognizes it as that of Moore's "My Heart and Lute." It is an amiable tune, to which "A-Sitting on a Gate" can agreeably be sung. (A copy in the New York Public Library has simple cadenzas pencilled in by a former owner.)

Del Tredici views the scene quite differently. He hears the Knight's words "spilling out with increasing frenzy," he writes in a program note. "The musical setting is meant to be at once funny, brusque, and breathless—a kind of infernal *perpetuum mobile* machine ever in danger of flying apart." The words are gabbled to a little tag of tune unrelated to their natural rhythms and inflections. No attempt is made to distinguish between the singer as narrator, the singer as interrogator, and the old man answering. At the climax of the song, *fff marcato*—on "I weep, for it reminds me so Of that old man I used to know"—piccolo and clarinet shriek in octaves, trumpet and horn bray, the piano is hammered hard, and the soprano voice bellows from loudspeakers. Between two settings of "A-Sitting on



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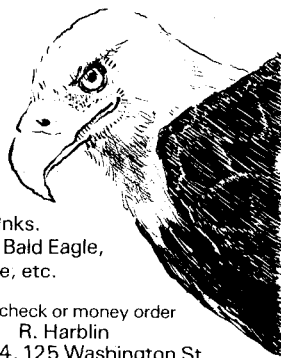
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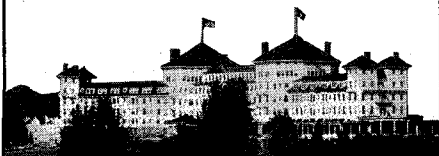
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a Gate," there is a setting of "My Heart and Lute," to a four-notes-up, four-notes-down tune in even eighth notes unmatched to the rhythm of the lines.

"Haddocks' Eyes" was commissioned and performed by the Chamber Music Society of Lincoln Center. Phyllis Bryn-Julson, long associated with the "Alice" pieces (she sang in the premières of "Pop-Pourri" and "In Memory of a Summer Day"), was the soprano. The composer conducted. Whoever commissions the next installment of the "Alicead" should stipulate a work for just singer and guitar, unamplified. An inventive and generous composer has splashed and wallowed long enough.

DEL TREDICI used to be a composer of finer mettle. The early (1964), delicate James Joyce setting "I Hear an Army," for soprano and string quartet, is proof enough of that. It is dedicated to Miss Bryn-Julson and has been recorded by her, on CRI. In April, it was revived at a Symphony Space concert given by the Queens College Contemporary Players, directed by Ralph Shapey, with Elsa Charlston as the soloist. The program was for the most part historical—Ruth Crawford Seeger's Suite for Wind Quintet, Varèse's "Octandre," Schoenberg's First Chamber Symphony—but included the New York première of Philip Fried's "Meditations and Satires," a cycle of apothegms translated from the Chinese and the Latin, set for soprano and instrumental ensemble. The texts are plainly important, and they were printed in the program, but since the houselights were turned off there was nothing much to be made of the piece.

The concert was one of several by university-based ensembles which were heard in New York this spring. "Octandre" had also been played the day before, by the Stony Brook Contemporary Music Ensemble, directed by Arthur Weisberg, in the McMillin Theatre of Columbia University. The program continued with Miriam Gideon's gravely beautiful cycle for tenor (here Gary Glaze) and instruments, "The Resounding Lyre" (1979), which is also recorded on CRI, and Elliott Carter's Brass Quintet. The second part was the New York deuxième of Hans Werner Henze's "The Miracle of the Rose" (1981), with Evan Spritzer, clarinet, a buoyant soloist.

In Alice Tully Hall, the Percussion

Group/Cincinnati, a trio-in-residence at the University of Cincinnati College-Conservatory of Music, gave the New York première of Mark Sayer's "From the Book of Imaginary Beings." Unable to attend the concert, I caught up with the work on tape, and discovered an engaging new composer with a voice of his own. Sayer has built four witty, poetic structures inspired by creatures in Borges's "Book of Imaginary Beings." The movements are "Bahamut" (the immense fish, of terrifying beauty, on which the universe ultimately rests), "The Lamed Wufniks" (the thirty-six righteous men for whose sake God spares the world), "A Bao A Qu" (which accompanies human souls on their quest for Nirvana, and suffers greatly when they fail), and "The Fauna of Mirrors" (who will one day cease to mimic the images of our world, and appear in their own shapes and colors). Borges's inventions lend themselves to music: Bahamut, a program note explains, is "both comprehensible and incomprehensible" and "fades in and out of focus in the human mind;" the loud wailing of the A Bao A Qu "is to us only a whisper, like the rustling of silk;" and when the Fauna of Mirrors prepare to invade the world, "from the depths of the shiny surfaces will come the faint clatter of weapons." Composers for percussion are tempted toward excess: by the sheer variety of instruments available, by the showers of notes that the -phones and the -spiels can so easily provide, and by the sheer racket so readily obtainable from gongs, cymbals, and drums. But Sayer is economical. He makes his effects by a few well-chosen timbres deployed in space and across silence with a precise control of rhythmic eloquence and of small but telling color changes. None of the movements outstays its welcome. The three Cincinnati players—Allen Otte, Jack Brennan, and James Culley—are master musicians.

The Peabody Percussion Ensemble (from the Peabody Institute of Johns Hopkins), directed by Jonathan Haas, joined with the American Saxophone Quartet for a performance in Symphony Space of Bernard Hoffer's "The River," a symphony for saxophone quartet and large percussion array. It is a picturesque piece, telling of the seasons of the Nile: "In the Dry Season" (Bartókian rustlings and tap-pings), "The River Rises" (the sound swells, the patterns grow fuller), "The River Overflows Its Banks"

(timpani break into exuberant, generous song), and "The River Nourishes the Land" (the four saxophones spin wave patterns rather like those of "Das Rheingold"). The program began with Dean Drummond's "Dirty Ferdie," whose sounds were clean, light, and attractive, and continued with Bernard Heiden's neat, sturdily Hindemithian Variations for Timpani and Saxophone Quartet, and Morton Subotnick's energetic but, it seemed, rather coarsely scored "The Key to Songs," in which the Peabody Computer Music Consort joined the Percussion Ensemble.

The New Jersey Percussion Ensemble (in residence at William Paterson College, Wayne), directed by Raymond Des Roches, came fourteen strong to the McMillin Theatre last month and offered what, by the time the evening was done, proved to be a surfeit of tinklings, tappings, jingles, chimes, and thumps. I enjoyed the pretty timbres of Jeffrey Kresky's "Bell Music" (1975), for four players, and the ingenuities of Mario Davidovsky's "Synchronism No. 5" (1969), for five players and tape; and admired the aplomb with which the expert, enthusiastic ensemble traversed the rhythmic thickets of Matthias Kriesberg's "State of Siege" (1976), for twelve players plus piano, which was receiving its belated premiere.

A FORTNIGHT later, Carter's famous "Three Pieces for Four Timpani" (1966), in a poised, thoughtful performance by Daniel Druckman, demonstrated—with even greater economy of means than Saya employed—how rich music can be made from simple strokes set out with delicacy and skill. This opened a satisfying and varied program given by the New York New Music Ensemble in Carnegie Recital Hall: George Crumb's "Makrokosmos IV," for piano duet; Boulez's captivating "Dérive," for flute, clarinet, violin, cello, percussion, and piano; and the first performance of Nicholas Thorne's earnest "Songs from the Mountains," for tenor (Paul Sperry) and the same instruments. —ANDREW PORTER

CONSTABULARY NOTES FROM ALL OVER

[From the Police Beat in the Brooklyn Heights Press & Cobble Hill News]

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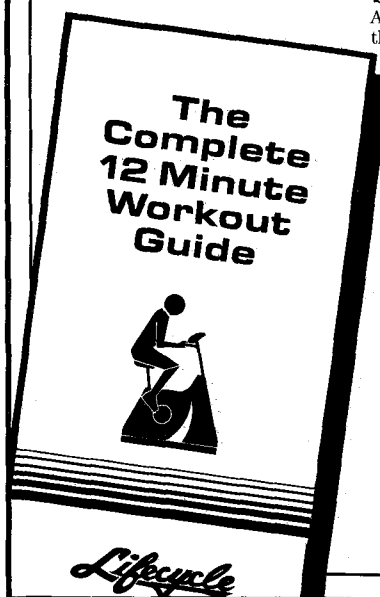


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THE CURRENT CINEMA

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THE imperious black call girl Simone (Cathy Tyson) works on a strict schedule that requires a chauffeured car to take her to luxury hotels and private residences. One night, after she has finished her rounds, and her driver, George (Bob Hoskins), is heading for her apartment, she asks him to stop as they go past the rows of streetwalkers soliciting along a London bridge. Sitting half hidden in the back of the car, she stares at the battered, painted girls; her face looks pinched—haunted—as if she never slept, as if her memories were shadows that would never lift.

In these shots in the new English film "Mona Lisa," directed by Neil Jordan, an Irish novelist turned moviemaker, the streetwalkers are standing around the car. George sees Simone's face in the mirror swimming at the center of a sea of women's faces. It's an emotionally hypercharged image; it's hellish, yet it's also sensuous, dreamy, mythic. And in that moment we see him fall in love with her. When a pimp recognizes Simone and sticks his head in the car's open front window, shouting insults at her, George, in a fury, bashes the guy's head against the top and bottom of the

open window and shoves the bloody mess out. As George drives on, the women's faces blur and disappear; they stay in your consciousness, though, throughout the movie, which is lurid in a beautiful way.

George is the central character. At one time an East End petty criminal, he has just come out of prison; he took a seven-year rap in place of the vice lord Mortwell (Michael Caine), and has been given the chauffeuring job as his recompense. Neil Jordan (and David Leland) wrote the script with Hoskins in mind; he's in every scene, and he's tremendous. This short, chunky actor is a powerhouse, yet he doesn't wear you out, the way some powerhouse performers do. As George, he's a decent, simple guy and a romantic at heart, but when he attacks a couple of big bruisers and knocks them down he's completely convincing. Jordan intends the movie to be an adult version of the fairy tale of the Frog Prince, told from the frog's point of view. But that isn't the image that comes to mind. Hoskins' George is a little like a Cockney version of Edward G. Robinson's tough guys and a little like Bruno Lawrence at his most impassioned and explosive in "Smash Palace." He's intensely sympathetic, yet brutish—especially when he's trying to assert that he's as good as anybody—and he charges his enemies like a chesty bull terrier. When he starts work as Simone's chauffeur, he doesn't know how to behave in the fancy lobbies where he is to pick her up; being ill at ease makes him belligerent, and he calls too much attention to himself. Simone is furious. She does nothing but curse and complain, and that makes him touchier and more obstreperous. The friend sitting next to me summed him up: "He's like a testicle on legs."

When George shows his devotion to the uncommunicative Simone—the Mona Lisa of the story—she sets him to searching the red-light districts of London for the girl that she was hoping to find when she asked him to stop the car. She and this little blonde—a fifteen-year-old heroin addict who was her friend when she was working the streets—were in the control of the same vicious pimp. George makes his way through the strip joints and erotic shows and whores' hangouts, and is sickened when he sees defenseless young girls covered with bruises. He finds Simone's friend and breaks into the mansion where she's being used in a blackmail scheme; she's so strung out



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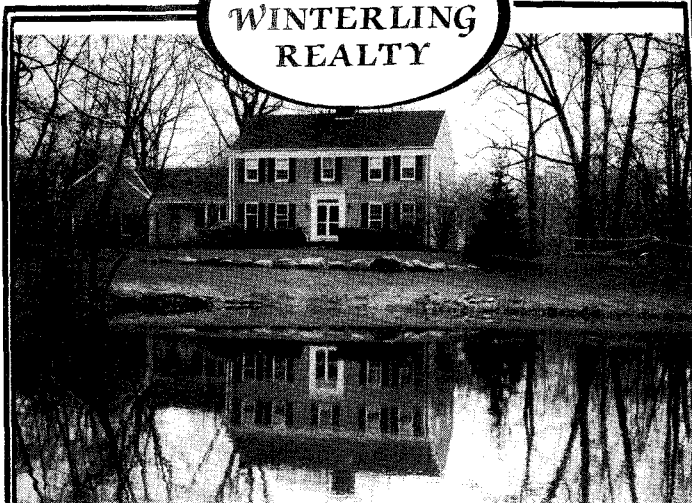
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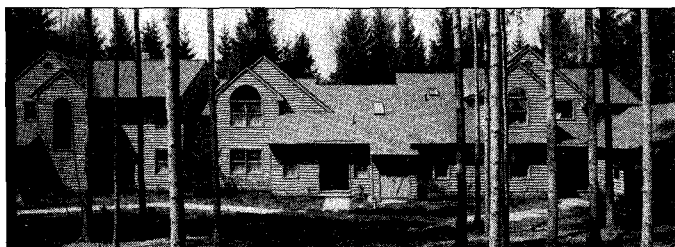


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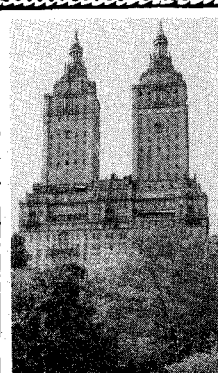
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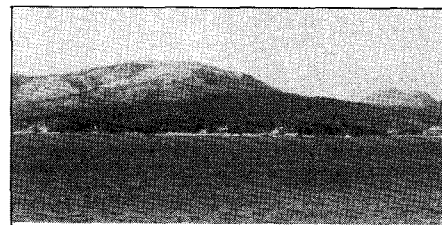


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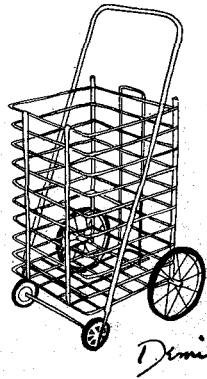
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and wrecked that he has to carry her piggyback to the car. (At first, George doesn't understand what's the matter with her. The script sometimes requires him to be more thickheaded than seems plausible, and the audience grasps things faster than he does. But we can accept this as a convention.) We see the drugs and kinkiness and cruelty as the good-hearted, appalled George sees them. He also sees that his old boss Mortwell is in the rotten thick of it. In this movie, vice is pitiful and powerfully ugly, and hallucinatory, too.

Most of the picture was shot on location in London and Brighton, but Jordan's London and Brighton never look merely realistic; the lighting (by the cinematographer Roger Pratt) heightens their emotional resonances. And Jordan—this is his third movie, after "Angel" (1982), set in Northern Ireland and released here as "Danny Boy," and "The Company of Wolves" (1984)—shows a gift for making the emotional atmosphere visual, and vice versa. He works in a heated-up rhetorical style that's something like a visual equivalent of Norman Mailer's method in "An American Dream." It's thought-out pop, and Jordan is perhaps too aware of the mythic layers in the material—an awareness that comes out in old-movie conceits and symbolic touches and contrasts and balances. You get the feeling that Jordan has hovered over this garden of references (with its dwarf and its white horse) very lovingly. He may be one of those people who become so involved in dreams and the unconscious that they go at everything consciously, like a diligent graduate student. Even his playfulness is pointed. You hear Nat King Cole's 1950 recording of the Jay Livingston and Ray Evans song "Mona Lisa" during the titles; you hear it again (as in a forties movie) on George's car radio. When George visits his burly old pal Thomas (Robbie Coltrane) and you see a reproduction of the Leonardo painting stuck on the side of the refrigerator in Thomas's private junk yard, it may be a bit fussy. And when George and Simone run for their lives, racing through the carnival stands on the pier at Brighton, it may not be such a great idea for them to jostle a display of red hearts and make them

fall to the boardwalk. But the way Jordan uses clichés they become part of a fluid, enjoyable texture, a melodramatic impasto with an expressive power of its own. It's his romanticism that pulls you along. And if there's an element of intellectual vanity or preciousness in the film's system of references Hoskins and Tyson and Coltrane and Caine redeem it. They haven't thought things out too much; they draw on their intuitions—and, yes, their unconscious. They do it naturally and confidently, and Jordan has made this possible. He may be over-aware of how he wants us to read the film's meaning, but he goes with the performers. He appears to let them set the rhythms in some of the key dialogue scenes; the result is oddly irregular and lifelike (in this stylized thriller), and very pleasing.



Cathy Tyson—she's a niece of Cicely Tyson—was raised in Liverpool and is, at twenty, a member of the Royal Shakespeare Company. She's a head taller than Hoskins, and has a slender-faced poignancy that makes Simone's foulmouthed anger seem like a self-violation. Simone's anger is inseparable from pain and loneliness, and when she drops her haughtiness and shows some fellow-feeling for George a viewer experiences the scene as if it were a spring bouquet, even though the ambiguousness and tension in the atmosphere aren't dispelled. This is Cathy Tyson's first movie, and I think it helps that we've never seen her before: her Simone is as mysteriously stirring to us as she is to George. Tyson also has remarkable control: there are few feminist tags on her performance, but her beauty incarnates everything that the sadistic pimps beat down in the process of turning girls into dependent dumb cows. It makes perfect sense that Simone has no love left in her for men. (And it makes perfect sense that Jordan, who was born in 1950 and is the father of two girls, has the empathy that he shows here, and makes George the father of a girl as a way of deepening his empathy.) The faintly out-of-it character—Coltrane's big, blubbery Thomas—has a calming influence on George and on the picture. Thomas's eccentric sanity is lightly amusing, and very easy to take, even though it's apparent that he's a function of the plot; he's in the movie to be a true friend to

George, to understand his follies, and to warn him about Mortwell right at the start.

The name Mortwell is a bit much and is probably intended to be, and so is the white rabbit that George gives this crime boss. (It provides the final baroque touch that, so to speak, fulfills the name.) But Mortwell is not a character you can just dismiss, and I can't recall a screen star of Michael Caine's rank who has had the talent and the willingness to play a man so foul and repugnant. It's said that all Caine's scenes were shot in four days, and there aren't really many of them, but they add up to a portrait of an abomination. Mortwell panders to the vices of the rich and the poor, and he does it in a routine, matter-of-fact way. His pallor and his fish-faced smile reveal that he knows he's not peddling nuts and bolts, but he views the girls he deals in as if they were something less than hardware. Mortwell is everything that the little mug George will never understand; he's what Simone has had to come to understand. And it's a scary performance: after more than fifty pictures, Caine still comes up with shocking surprises. As Mortwell, Caine is believably evil, just as Hoskins, as George, is believably kind yet violent. It may be no more than an accident of casting that these two actors are also on-screen together in "Sweet Liberty," and that they were together in the 1983 "Beyond the Limit" (the film of Graham Greene's "The Honorary Consul"). But in some way that perhaps Caine and Hoskins—who are both playing Cockneys here—understand, they operate on the same energy level. They take paper conceptions and turn them into characters who are more alive than anybody else in their pictures. Caine manages to do this even when he's playing a piece of ordure like Mortwell.

"Mona Lisa" reeks of noirishness. Worse, it reeks of intellectualized noirishness. But the whole movie has some of the potency of cheap music that's represented by the title song. I succumbed.

THE strapping Kelly McGillis spends her time in "Top Gun" sidling into rooms and leaning against doorways, or slouching or bending, so she won't overpower her co-star, the relatively diminutive Tom Cruise. In some scenes, she stands slightly behind him, resting on his shoulder with her body contorted into an S so their heads

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will be on a level. And all the while she does her full-blown best to leer at him sexily. The best part of the movie comes when he's suffering: he speaks in a little-boy voice and looks such a Nautilized, dinky thing. Trying to instill courage in him, she says throatily, "When I first met you, you were larger than life."

In Nabokov's "Lolita," Humbert Humbert tortures himself with images of his nymphet in the arms of "kissy-faced brutes;" that's what "Top Gun" is full of. When McGillis is offscreen, the movie is a shiny homoerotic commercial featuring the elite fighter pilots in training at San Diego's Miramar Naval Air Station. The pilots strut around the locker room, towels hanging precariously from their waists, and when they speak to each other they're head to head, as if to shout "Sez you!" It's as if masculinity had been redefined as how a young man looks with his clothes half off, and as if narcissism is what being a warrior is all about.

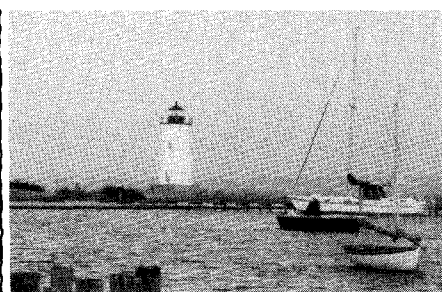
In between the bare-chested maneuvers, there's footage of ugly snub-nosed jets taking off, whooshing around in the sky, and landing while the soundtrack calls up Armageddon and the Second Coming—though what we're seeing is training exercises. Photographed up close in a heavy make-believe fog, the planes turn into mythic beasts, the men in the ground crews are adjuncts of these beasts, and the high-powered music simulates a primeval storm. But once the planes are in the sky the jig is up. When aerial dogfights are staged with jets, the pilots are barely visible—you can't tell them apart—and it's all so quick and depersonalized there's nothing to see but hunks of steel flashing by.

What is this commercial selling? It's just selling, because that's what the producers, Don Simpson and Jerry Bruckheimer, and the director, Tony (Make It Glow) Scott, know how to do. Selling is what they think moviemaking is about. The result is a new "art" form: the self-referential commercial. "Top Gun" is a recruiting poster that isn't concerned with recruiting but with being a poster.

—PAULINE KAEI

With the threat of tourism spreading across much of the globe, many tourists will be spending their summer vacations on home soil this year.—Chapel Hill (N.C.) Newspaper.

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Ump

LEE MALCOLM has a "God-given talent" for umpiring. "I don't know what makes a good umpire," an old baseball coach tells him. "Reflexes? Good eyes? I don't know. You've got it, whatever it is." The coach has dropped in on Lee one summer night after his high-school graduation to show him a newspaper ad about an umpiring school. It could be his first step on the way to the big leagues, the coach predicts.

"Lee's going to college," his girlfriend, Pam—college-bound herself—observes.

"I know," the coach says. "He *should* go to college."

"Of course he should," says Pam.

"If it was me, I'd want to know," the coach says. "I just thought Lee should know."

Lee Malcolm is the hero of "The Conduct of the Game," by John Hough, Jr. (Harcourt Brace Jovanovich; \$14.95). The novel's early chapters, in which the hero learns about umpiring and adulthood, raise memories of countless tales of athletes coming of age—memories that form something like a line of harmony to go with the melody of the narrative. The reader discovers that the life of a young umpire is full of issues and events that could also occur in the life

of a young ballplayer (professional hurdles, difficult teammates, bad plays, and conflicts between ambition and friendship); that umpiring and playing involve common skills (reflexes, eyesight, and presence of mind); that there is artistry to a well-called play; and that, as Lee says, "baseball can be thrilling, and it can be beautiful—but only if the umpiring is good." Yet there is a dissonant quality to the way the conventions of sports fiction echo through these scenes. The umpire lives in the shadow of celebrity. He even dresses like a shadow, in a navy-blue blazer, so as not to commit the high sin of "distracting our attention from the game." If he is noticed, it means he has done something wrong, or is suspected of it. To see baseball through his eyes is to turn the game inside out, and to strike a blow against the whole celebrity-centered way in which sports (and, for that matter, just about every professional and business enterprise these days) tends to be regarded, in fiction and nonfiction.

I don't know if Hough meant to strike that blow when he chose an umpire for a protagonist. Whatever his larger purposes, though, he put them way up his sleeve once he began writing. For much of its length, this is

a charmingly low-keyed novel in which the characters seem to have their way with the plot. It succeeds in playing off the hero-athlete genre precisely because the author seems so unconscious of the parallel—because he focusses his attention so resolutely on his small cast of characters and their fortunes. Lee Malcolm, finding himself in love with umpiring and with a girl who is not cut out to be an umpire's wife, decides to have both. Promising to visit Pam at Thanksgiving or, if he can't get away then, at Christmas, he leaves his home on Cape Cod to study umpiring in St. Petersburg, Florida, at a school run by the formidable Nick Nickinello, an ex-major leaguer. There he learns Nick Nickinello's "Ten Commandments":

1. Never let anyone call you "horseshit."
2. Be stationary when making a call. It is like taking a picture. If you're moving, the picture blurs.
3. When working the plate, don't let the catcher talk too much. It will distract you, and he knows it.
4. Never confer with your partner between innings after a close call and an argument. It will look as if you doubt your call and have gone for reassurance.
5. Before a close play at the plate, remember to peel off the mask without knocking your cap over your eyes.
6. Never hurry a call. Wait. Be sure. That second of hesitation makes all the difference.
7. Listen to an argument for a minute or so—if there is no cussing. If he keeps it up, walk away. If he follows you, warn him. If he follows some more, unload him.
8. Don't let them jaw at you from the bench. It tarnishes your game. Walk over there and shut them up.
9. Never say, "One more word and you're out of here," unless you're ready to toss the guy. Guaranteed, he will say one more word.
10. Never let anyone call you "horseshit."

Lee falls in with Eddie Snyder, the only other student as capable and as dedicated as he is, and the only one who puts a similarly high value on the insights of Nick Nickinello. Eddie is too small for professional umpiring—too small from the standpoint of intimidation, that is. "Oh, he could have worked junior high games," Lee tells us. "High school, maybe. Eddie knew it, but he forgot sometimes." Eddie also has a nasty temper. If there is trouble, he makes it worse—for Lee, who is compulsively loyal, and for himself. When Lee is offered a job in the Central Florida League, Eddie



muscles in on the interview and pleads to be hired as well. Questions are raised about his size. "Can you control a game?" Nick Nickinello asks. "Yeah. Yeah," Eddie says. Unconvinced, Nickinello asks Lee for his opinion, noting that "the minors are no day at the beach under any conditions." "I can't decide for Eddie," Lee answers evasively. But when the president of the league asks him if he can work with Eddie he says, "Sure," and knows he will suffer for it.

These are strongly felt, persuasively constructed scenes. Hough writes good dialogue for characters under pressure—bumpy dialogue that keeps the story honest whenever it threatens to go off in a formulaic direction. He allows his characters the desire to express themselves but resists the temptation to let them express themselves too well. It doesn't take much plot, in his hands, to hold the reader's interest. And yet, after the story has been bouncing along in this gracefully uncalculating way for a hundred and fifty pages or so the author hastily—almost guiltily—hatches a plot with a capital "P." Lee falls in love with Vicky, the sister of a ballplayer. Then he launches an obsessive campaign to reconstruct his relationship with Pam, who—apparently as a result of four years at Bryn Mawr—has become more accessible physically but more remote in just about every other way. Promoted to the major leagues, Lee comes into unwanted possession of the knowledge that one of his fellow-umpires is homosexual. (The novel is set in the nineteen-fifties and sixties, when there is no doubt that the disclosure of that fact would mean, at the least, the loss of a job.) He has a series of run-ins with a militant black rookie phenom, who becomes involved—by a somewhat forced turn of the plot—with Pam. And everything Lee does is watched over by Bugs Trovarelli, a bowlegged bulldog of an umpire whose idea of entertainment is to criticize Lee's performance and then, when he has him worried, razz him for being weak-minded. "You kick a call, you kick a call," Bugs says, propounding his highest principle. "Die with it. Be a man."

With so much plot to coordinate, Hough lets his scenes become sketchy and his characters become pat. Bugs, forced into a villain's role, is particularly disappointing. The reader expects better—or, at least, more—of such a tantalizing fellow. And when the situation finally compels Lee Malcolm to give up his umpiring career

the author's heart doesn't seem to be in the decision. He seems, rather, to have surrendered his storytelling intuitions to some abstract idea about the irreconcilability of loyalty and authority, or to a sense of the kind of emphatic gesture that *belongs* at the end of a novel. It's as if a fine opposite-field hitter suddenly took it into his head to pull the ball.

—JAMES LARDNER

BRIEFLY NOTED

FICTION

MY FRIENDS, by Emmanuel Bove, translated from the French by Janet Louth (Carcanet; \$15.95). Seven vignettes form a first-person portrait of a down-and-out Parisian, a *mutilé de guerre* misnamed Victor Bâton, whose excruciating shyness and self-consciousness allow him to be repeatedly misunderstood and misused. Written in 1922, when Bove was twenty-four, this little book, with its photographic focus and its encyclopedic variety, does for Paris what "Ulysses" did for Dublin; Victor notes everything from the milk stains on his neighbor's slippers to the unscuffed soles of a rich man's shoes. At first, the stage seems set for quiet comedy—one half expects to see the Little Tramp trotting around a corner—but a dogged sort of self-pity sets in. By the end of each vignette, Victor is as friendless as ever, and things—a barber's nickel-plated armbands, say—have assumed a malevolence that belongs to the Paris of "La Nausée." Colette helped to get "Mes Amis" published in 1923; it was reissued in French in 1977.

GENERAL

AROUND THE DAY IN EIGHTY WORLDS, by Julio Cortázar, translated from the Spanish and the French by Thomas Christensen (North Point; \$22.50). Cortázar, the self-exiled Argentine novelist who died in France two years ago, at sixty-nine, was addicted to literary play. He liked surreal jokes, shaggy-dog fantasies, short stories that ended before they were fairly begun; when an odd thought entered his head, he wrote it down quickly and winged it out to the world like a paper airplane. This collection of short pieces—what he calls a "collage-book"—is made up of poems, essays, brief fictions, political-philosophical musings, and shreds and patches of autobiog-

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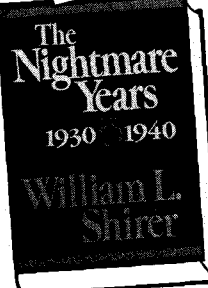


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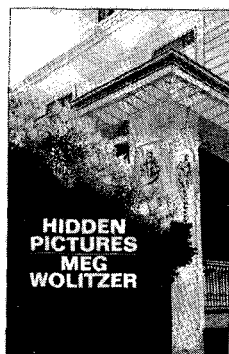
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raphy; there are also homages to such people as Louis Armstrong, Marcel Duchamp, and Thelonious Monk. Some of these exercises in frankly avowed self-indulgence are exasperating, but others are fresh and wonderful. Cortázar was a master of the arresting opening sentence—"When I told Polanco that there was a fly in my room that flew on its back there followed one of those silences that resemble holes in the vast cheese of the air"—and he had an amiable way with nonsense which did not make a fool of the reader. Illustrated with drawings and photographs selected by the author.

PLAYING GOD IN YELLOWSTONE:

THE DESTRUCTION OF AMERICA'S FIRST NATIONAL PARK, by Alston Chase (Atlantic Monthly; \$24.95). If we all need a few illusions, Mr. Chase has done us a disservice. His thorough job of reporting demolishes the Smokey-the-Bear aura surrounding the National Park Service; park rangers, in their Boy Scout hats, he demonstrates, are as capable of shortsightedness and deceit as anyone else. But this account exposes more than outrages inflicted on the grizzly and the elk. It questions our ideas of the natural and the wild, and indicts environmentalists (for an almost religious and perhaps unworkable attachment to "pure" nature) nearly as severely as bureaucrats. Mr. Chase's speculations about the possibility of a globally cataclysmic volcanic eruption from the park's boiling heart seem almost cheery amid the other horrors described in this volume.

THE HORSE TRADERS, by Steven Crist (Norton; \$16.95). Thoroughbred racing today, it seems, is about money. This account of the change that has come over the former Sport of Kings begins with the decision of the owners of Secretariat, the stallion that won the Triple Crown in 1973, to retire their horse to stud rather than continue racing him for prize money, and to syndicate him by selling shares in his breeding rights; in this way, a racehorse can make millions of dollars more than he ever could at the track. Soon other stables followed suit, and now, as the author remarks, horses are raced to be bred, instead of the other way around. Mr. Crist, who covers horse racing for the *Times*, explains the workings of this new financial-futures market, and tells about the

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MYSTERY AND CRIME

HERE BE MONSTERS, by Anthony Price (Mysterious Press; \$15.95). Mr. Price is a writer more widely known and appreciated in his native Britain than he is in this country, and the reason may be that the thrills he offers are more cerebral than emotional. This novel, his fifteenth, has to do with a possible deep-rooted and traitorous relationship between an American officer and a British officer whose life the American saved off the coast of Normandy on D Day. It opens with the apparent murder of the American while he is strolling on a cliff above the Normandy beach during the fortieth anniversary of the 1944 invasion. Mr. Price unreels his almost hopelessly tangled story through the triumphs and confusions of a young English woman agent on her first assignment in the field. It is ninety per cent dialogue, ninety per cent of which is interrogation.

GROUND MONEY, by Rex Burns (Viking; \$15.95). The title here is a rodeo term, and Mr. Burns' new entanglement featuring the half-Mexican, half-Anglo Denver homicide detective he calls Gabe Wager has a lot to do with rodeo—small-time, small-town rodeo. There are also some heart-thumping moments on a rubber raft on the rampaging Dolores River in the Rockies, and a dangerous whiff of marijuana. Mr. Burns has never written better, and he has never had a better story to tell.

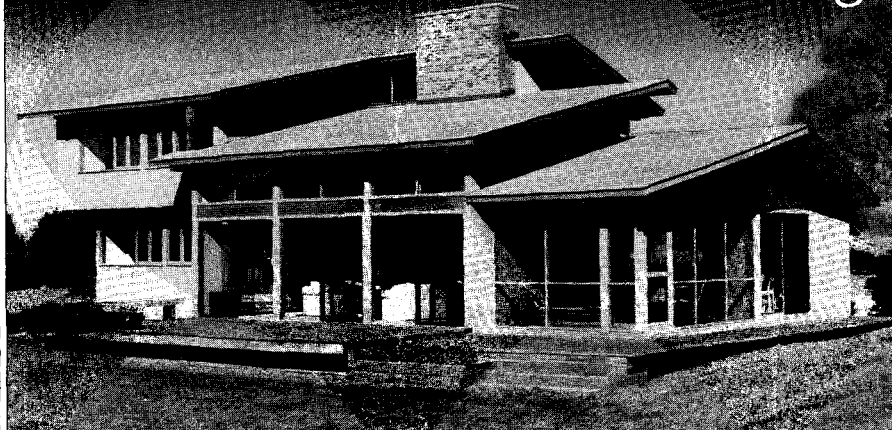
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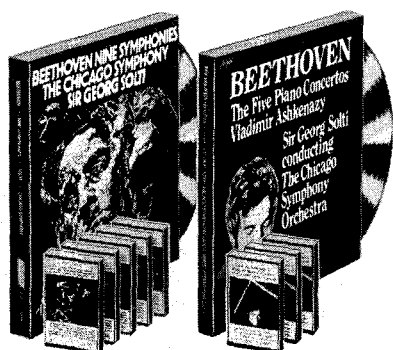
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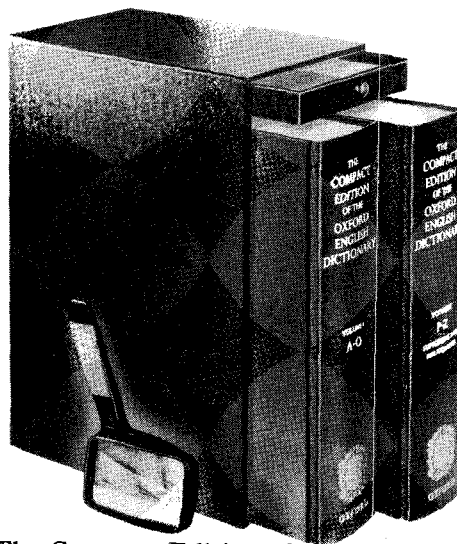
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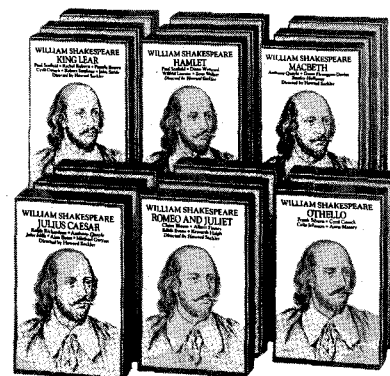
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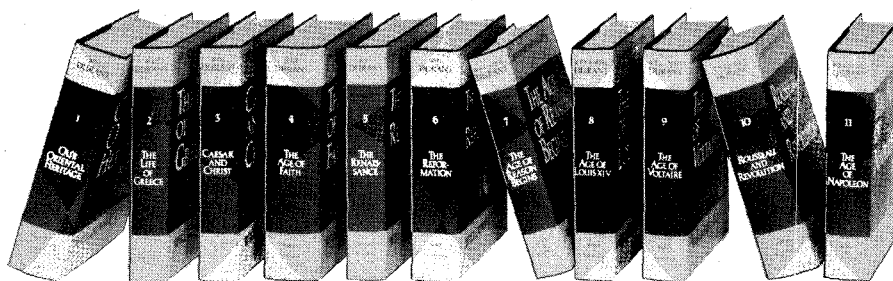
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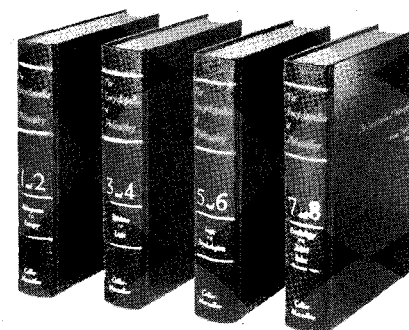


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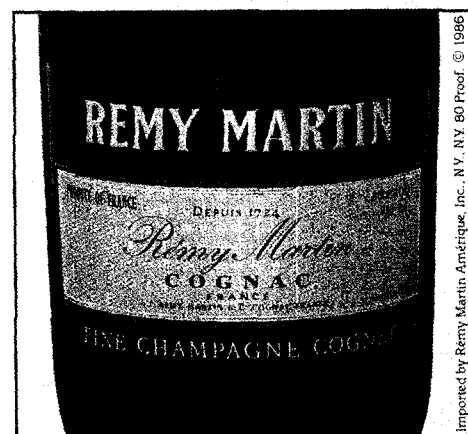
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